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No. 6] NEW DELHI, SATURDAY, FEBRUARY 10, 1990/MAGHA 21, 1911

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

विधि एवं न्याय मंत्रालय

(विधि कार्य विभाग)

सूचनाएं

नई दिल्ली, 15 जनवरी, 1990

का.आ. 325.—नोटरीज नियम, 1956 के नियम
6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी
जाती है कि श्री इसहाक मोहम्मद एडवोकेट ने उक्त प्राधि-
कारी को उक्त नियम के नियम 4 के अधीन एक आवेदन
इस बात के लिए दिया है कि उसे कोटा शहर (राजस्थान)
व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर
किसी भी प्रकार का आपेक्ष इस सूचना के प्रकाशन के चौदह
दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. 5(4)/90-न्या.]

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

NOTICES

New Delhi, the 15th January, 1990

S. O. 325.—Notice is hereby given by the Competent
Authority in pursuance of rule 6 of the Notaries, 1956,
that application has been made to the said Authority, under
rule 4 of the said Rules, by Shri Ishaq Mohammed, Advoca-
te for appointment as a Notary to practise in Kota City
(Rajasthan).

2. Any objection to the appointment of the said person
as a Notary may be submitted in writing to the undersigned
within fourteen days of the publication of this Notice.

[No. F. 5(4)/90-Judl.]

का.आ. 326.—नोटरीज नियम, 1956 के नियम
6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी
जाती है कि श्री सतीश बी पारीख एडवोकेट ने उक्त प्राधि-
कारी को उक्त नियम के नियम 4 के अधीन एक आवेदन

इस बात के लिए दिया है कि उसे पंच महल गोदारा मुजरत व्यवसाय करने के लिए, नोटरी के रूप में नियुक्ति पर किसी भी प्रकार का आपेक्ष उस सूचना के प्रकाशन के चौदह दिन के भीतर लिखित रूप में भरे पास भेजा जाए।

[सं. फा. 5(3)/90-न्याय]

के.एल. शर्मा, सक्षम प्राधिकारी

S. O. 326.—Notice is hereby given by the Competent Authority in pursuance of rule 6 of the Notaries, 1956, that application has been made to the said Authority, under rule 4 of the said Rules, by Shri Satish V. Parikh, Advocate for appointment as a Notary to practice in Panchmahal Godhra, Gujarat.

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(3)/50-Judl.]

K. L. SARMA, Competent Authority

गृह मंत्रालय

(आन्तरिक सुरक्षा विभाग)

(पुनर्वास प्रभाग)

नई दिल्ली, 13 दिसम्बर, 1989

का.आ. 327.—निष्क्रांत संपत्ति प्रबन्ध अधिनियम 1950 (1950 का अधिनियम संख्या 31) की धारा 55 की उपधारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं, जी.पी. एस. साही एतद्वारा इस विभाग की अधिसूचना संख्या - 1(7)/विशेष सैल/88-एस.एस.-II(घ) दिनांक 13-12-89 द्वारा नियुक्त हरियाणा राज्य के सहायक महाभिरक्षक को महाभिरक्षक की निम्नलिखित शक्तियां सौंपता हूँ :—

- (1) उक्त अधिनियम की धारा 24 एवं 27 के अंतर्गत शक्तियां।
- (2) अधिनियम की धारा 10(2) (0) के अंतर्गत किसी निष्क्रांत संपत्ति के हस्तांतरण के अनुमोदन की शक्तियां।
- (3) निष्क्रांत संपत्ति प्रबन्ध अधिनियम (केन्द्रीय) नियम, 1955 के नियम 30-ए के अंतर्गत भूमियों के हस्तांतरण की शक्तियां।

2. इसके द्वारा दिनांक 18-7-89 की अधिसूचना संख्या-1 (7)/विशेष सैल/88-एस.एस.-II(ङ) का अधिक्रमण किया जाता है।

[संख्या 1-(7)/विशेष सैल/88-एस.एस.-II(ङ)]

MINISTRY OF HOME AFFAIRS

(Department of Internal Security)

(Rehabilitation Division)

New Delhi, the 13th December, 1989

S. O. 327.—In exercise of the powers conferred on me as Custodian General by Sub-section 3 of Section 55 of the Administration of Evacuee Property Act, 1950 (31 of 1950), I, G.P.S. Sahi, hereby delegate to the Assistant Custodian General for the State of Haryana, appointed vide Notification No. 1(7)/Spl. Cell/88-SS.II(D), dated 13th December, 1989, the following powers of the Custodian General :—

- (i) Powers under Section 24 and 27 of the Act.
- (ii) Powers of approval of transfer of any evacuee property under Section 10(2)(o) of the Act.
- (iii) Powers of transfer of cases under Rule 30-A of the Administration of Evacuee Property (Central) Rules, 1955.

2. This supersedes Notification No. 1(7)/Spl. Cell/88-SS.II(E), dated the 18-7-1989.

[No. 1(7)/Spl. Cell/88-SS. II(E)]

का.आ. 328.—विस्थापित व्यक्ति (प्रतिकर एवं पुनर्वास) अधिनियम, 1954 (1954 का 44) की धारा 34 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं, जी.पी. एस. साही, मुख्य - बन्दोबस्त आयुक्त एतद्वारा उक्त अधिनियम के अधीन बनाए गए 87, 88, 90(1) (ए), 90 (1) (बी), 90(11), 90(12) और 101 संख्यक नियमों के अंतर्गत फरीदाबाद एन. आई.टी. की भूमि तथा सम्पत्तियों सहित मग्रावजा पूल के भाग की भूमि और संपत्तियों जिनका प्रशासनिक और वित्तीय प्रबन्धों के अंतर्गत हरियाणा सरकार को हस्तांतरण कर दिया गया था के निपटान से संबंधित अपनी शक्तियां बन्दोबस्त आयुक्त की शक्तियों का प्रयोग कर रहे हरियाणा राज्य के पुनर्वास विभाग के संयुक्त सचिव श्री जे.के. गुप्ता, को सौंपता हूँ।

2. इसके द्वारा दिनांक 18-7-1989 की अधिसूचना संख्या 1(7) विशेष सैल/88-एस.एस. II(ग) का अधिक्रमण किया जाता है।

[संख्या-1(7)/विशेष सैल/88-एस.एस.-II(ग)]

S. O. 328.—In exercise of the powers conferred on me by Sub-section (2) of Section 34 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), I, G.P.S. Sahi, Chief Settlement Commissioner, hereby delegate powers under rules 87, 88, 90(1)(a), 90(1)(b), 90(11), 90(12) and 101 framed under the said Act, to Shri J. K. Gupta, Joint Secretary, Rehabilitation Department, Government of Haryana, exercising the powers of the Settlement Commissioner, for the purpose of disposal of all lands and properties including those in Faridabad N.I.T. forming part of the compensation pool, which was transferred to the Government of Haryana, under Administrative and Financial arrangements.

2. This supersedes notification Nos. 1(7)/Spl. Cell/88-SS.II(C) dt. 18-7-1989.

[No. 1(7)/Spl. Cell/88-SS.II(C)]

आदेश

का.आ. 329.—विस्थापित व्यक्ति (प्रतिकर तथा पुनर्वास) अधिनियम, 1954 (1954 का 44) की धारा 34 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं, जी.पी. एस. साही, मुख्य बन्दोबस्त आयुक्त इसके द्वारा बन्दोबस्त आयुक्त की शक्तियों का प्रयोग कर रहे श्री जे.के. गुप्ता, संयुक्त सचिव, पुनर्वास विभाग, हरियाणा सरकार को, उक्त अधिनियम की धारा 23, 24, 28 और 35 के अधीन मुख्य बन्दोबस्त आयुक्त को प्रदत्त ऐसी शक्तियाँ सौंपता हूँ जिनका हरियाणा राज्य में स्थित ग्रामीण और शहरी निष्क्रान्त भूमि और सम्पत्तियों के संबंध में प्रयोग किया जाएगा।

2. इस आदेश से दिनांक 18-7-1989 के आदेश संख्या 1(7)/विशेष सैल/88-एस.एस.-II (ख) का अधि-क्रमण किया जाता है।

[संख्या-1(7)/विशेष सैल/88-एस.एस.-II(ख)]

ORDER

S. O. 329.—In exercise of the powers conferred on me under Sub-section (2) of Section 34 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (44 of 1954), I, G.P.S. Sahi, Chief Settlement Commissioner do hereby delegate to Shri J. K. Gupta, Joint Secretary in the Rehabilitation Department of the Government of Haryana, exercising the powers of Settlement Commissioner, the powers conferred on the Chief Settlement Commissioner under Section 23, 24, 28 and 35 of the said Act in so far as such powers may be exercised in respect of rural and urban evacuee lands and properties situated in Haryana State.

2. This order supersedes order No. 1(7)/Spl. Cell/88-SS-II(B), dated the 18-7-1989.

[No. 1(7)/Spl. Cell/88 SS-II(B)]

नई दिल्ली, 18 दिसम्बर, 1989

का.आ. 330.—विस्थापित व्यक्ति (प्रतिकर तथा पुनर्वास) अधिनियम, 1954 (1954 का 44) की धारा 34 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं, जी.पी.एस. साही, मुख्य बन्दोबस्त आयुक्त एतद्वारा इस विभाग की अधिसूचना संख्या-1(4)/विशेष सैल/89-एस.एस.-II(क) दिनांक 18-12-1989 के तहत बन्दोबस्त आयुक्त के रूप में नियुक्त मध्य प्रदेश सरकार में संयुक्त सचिव अथवा उपसचिव जैसा भी मामला हो को मुख्य बन्दोबस्त आयुक्त की निम्नलिखित शक्तियाँ सौंपता हूँ:—

- (1) उक्त अधिनियम की धारा 23 के अधीन अपील सुनने की शक्तियाँ।
- (2) उक्त अधिनियम की धारा 24 के अधीन संगोधन सुनने की शक्तियाँ।
- (3) उक्त अधिनियम की धारा 28 के अधीन मामलों के हस्तान्तरण की शक्तियाँ।

2. इसके द्वारा दिनांक 6-8-1981 की अधिसूचना सं. 1-(4)/विशेष सैल/89-एस.एस.-II(ख) का अधिक्रमण किया जाता है।

[संख्या 1(4)/विशेष सैल/89-एस.एस.-II(ख)]

New Delhi, the 18th December, 1989

S.O. 330.—In exercise of the powers conferred on me as Chief Settlement Commissioner by Sub-section (2) of Section 34 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (Act No. 44 of 1954), I, hereby delegate to the Joint Secretary and Deputy Secretary, as the case may be, to the Government of Madhya Pradesh, Rehabilitation Department, appointed as Settlement Commissioner, vide this Department's Notification No. 1(4)/Spl. Cell/89-SS-II(A) dated 18th December, 1989, the following powers of the Chief Settlement Commissioner:—

- (i) Powers to hear appeals under Section 23 of the said Act.
- (ii) Powers to hear revisions under Section 24 of the said Act.
- (iii) Powers to transfer cases under Section 28 of the said Act.

2. This supersedes Notification No. 1(13)/Spl. Cell/81-SS-II(G) dt. 6-8-1981.

[No. 1(4)/Spl. Cell/89-SS-II(B)]

का.आ. 331.—निष्क्रान्त संपत्ति प्रशासन अधिनियम 1950 (1950 का अधिनियम संख्या 31) की धारा 55 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं, जी.पी.एस. साही, महा-अभिरक्षक एतद्वारा इस विभाग की अधिसूचना संख्या-1(4)/विशेष सैल/89-एस.एस.-II(ग) दिनांक 18-12-1989 द्वारा सहायक बन्दोबस्त आयुक्त के रूप में नियुक्त संयुक्त सचिव तथा उपसचिव, जैसा कि भी मामला हो को महाभिरक्षक को निम्नलिखित शक्तियाँ सौंपता हूँ:—

- (1) उक्त अधिनियम की धारा 24 एवं 27 के अंतर्गत अपील सुनने की शक्तियाँ।
- (2) अधिनियम की धारा 10(2) (0) के अंतर्गत किसी निष्क्रान्त संपत्ति के हस्तान्तरण के अनु-मोदन की शक्तियाँ।
- (3) निष्क्रान्त संपत्ति प्रशासन अधिनियम (केन्द्रीय) नियम 1950 के नियम 30-ए के अंतर्गत मामलों के हस्तान्तरण की शक्तियाँ।

2. इसके द्वारा दिनांक 6-8-1981 की अधिसूचना संख्या -1(13)/विशेष सैल/81-एस.एस.-II(घ) का अधिक्रमण किया जाता है।

[संख्या-1(4)/विशेष सैल/89-एस.एस.-II(घ)]

जी.पी.एस. साही, महा-अभिरक्षक

S. O. 331.—In exercise of the powers conferred on me as Custodian General by Sub-section (3) of Section 55 of the Administration of Evacuee Property Act, 1950 (31 of 1950), I hereby delegate to the Joint Secretary and Deputy Secretary, as the case may be, to the Government of Madhya Pradesh, Rehabilitation Department appointed as

Assistant Custodian General for the State of Madhya Pradesh vide this Department's Notification No. 1(4)/Spl. Cell/89-SS.II(C), dated the 18th December, 1989, the following powers of Custodian General :—

- (i) Powers under Section 24 and 27 of the Act.
- (ii) Powers of approval of transfer of any of evacuee property under section 10(2)(O) of the Act.
- (iii) Powers of transfer of cases under Rule 30 of the Administration of Evacuee Property Central Rules, 1950.

2. This supersedes Notification No. 1(13)/Spl. Cell/81-SS.II(D) dt. 6-8-1981.

[No. 1(4)/Spl. Cell/89-SS. II(D)]

G.P.S. SAHJ, Custodian General

नई दिल्ली, 13 दिसम्बर, 1989

का. आ. 332.—निष्क्रान्त संपत्ति प्रवन्ध अधिनियम, 1950 (1950 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा पुनर्वास विभाग, हरियाणा सरकार में संयुक्त सचिव श्री जे. के. गुप्ता को 27-11-89 (पूर्वानुद्) से उक्त अधिनियम के द्वारा अथवा उसके अंतर्गत हरियाणा राज्य में स्थित निष्क्रान्त संपत्ति के संबंध में सहायक महाभिरक्षक को सौंपे गए कार्यों का निष्पादन करने के उद्देश्य से निष्क्रान्त संपत्ति का सहायक महाभिरक्षक नियुक्त करती है।

2. इसके द्वारा दिनांक 18-7-89 की अधिसूचना सं. 1(7)/विशेष सैल/88-एस.एम.-II (घ) का अधि-क्रमण किया जाता है।

[संख्या-1(7)/विशेष सैल/88-एस.एम.-II(घ)]

New Delhi, the 13th December, 1989

S. O. 332.—In exercise of the powers conferred by Section 5 of the Administration of Evacuee Property Act, 1950 (XXXI of 1950), the Central Government hereby appoint Shri J. K. Gupta, Joint Secretary, Rehabilitation Department, Government of Haryana, as the Assistant Custodian General of Evacuee Property situated in the State of Haryana for the purpose of discharging the duties imposed on such Assistant Custodian General by or under the said Act with effect from 27-11-1989 (A. N.).

2. This supersedes Notification No. 1(7)/Spl. Cell/88-SS.II(D), dated 18-7-1989.

[No. 1(7)/Spl. Cell/88-SS.II(D)]

का. आ. 333.—विस्थापित व्यक्ति (प्रति-कर तथा पुनर्वास) अधिनियम, 1954 (1954 का 44) की धारा 3 की उपधारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार इसके द्वारा हरियाणा सरकार के पुनर्वास विभाग में संयुक्त सचिव श्री जे. के. गुप्ता को उक्त अधिनियम के अधीन अथवा उसके द्वारा बन्दोबस्त आयुक्त को सौंपे गए कार्यों के निष्पादन के लिए 27-11-89 (अप्रानुद्) से, हरियाणा राज्य में बन्दोबस्त आयुक्त नियुक्त करती है।

2. इस अधिसूचना के द्वारा दिनांक 18-7-1989 की अधिसूचना सं. -1 (7)/विशेष सैल/88-एस.एम.-11(क) का अधिक्रमण किया जाता है।

[संख्या -1(7)/विशेष सैल/88-एस.एम.-II(क)]

कुलदीप राय, उप सचिव

S. O. 333.—In exercise of the powers conferred by Sub-section (i) of Section 3 of the Displaced person, (Compensation and Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoint Shri J. K. Gupta, Joint Secretary in the Rehabilitation Department of the Government of Haryana, as Settlement Commissioner in the State of Haryana for the purpose of performing the functions assigned to a Settlement Commissioner by or under the said Act, with effect from 27-11-1989 A. N.

2. This Notification supersedes Notification No. 1(7)/Spl Cell/88-SS.II(A) dated the 18-7-1989.

[No. 1(7)/Spl. Cell/88 SS.II(A)]

KULDIP RAI, Dy. Secy.

कामिक, लोक शिकायत तथा पेंशन मंत्रालय

(कामिक और प्रशिक्षण विभाग)

आदेश

नई दिल्ली, 17 जनवरी, 1990

का.आ. 334.—केन्द्रीय सरकार, नई दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का 25) की धारा 6 के साथ पठित, धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उत्तर प्रदेश सरकार के गृह विभाग के पत्र सं. 2026/89-सी.एस.-7 तारीख 25-9-89 द्वारा प्राप्त उत्तर प्रदेश राज्य सरकार की सहमति में, निम्नलिखित अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और अधिकारिता का विस्तारण सम्पूर्ण उत्तर प्रदेश राज्य पर करती है :—

(क) भारतीय दण्ड संहिता 1860 (1860 का 45), की धारा 302 और 301 के अधीन दण्डनीय अपराध श्री पीयूष मणि तिवारी मृगु श्री के.एम. तिवारी, अपर कलक्टर, सीमा-शुल्क भारत-नेपाल सीमा, गोरखपुर की हत्या से संबंधित मामला सं. 88/89 जो उत्तर प्रदेश राज्य में पुलिस थाना गवर्नमेंट रेलवे पुलिस, गोरखपुर में रजिस्ट्रीकृत है।

(ख) ऊपर उल्लिखित अपराधों में से किसी एक या एक से अधिक अपराधों और उन्हीं तथ्यों से उत्पन्न होने वाले एकही संव्यवहार के अन्तर्गत में किए गए किसी अन्य अपराध के संबंध में अथवा उक्त संयुक्त प्रवृत्ति दुष्प्रेरण और पड़यंत्र।

[संख्या 228/19/89-ए.पी.डी.-II)]

जी. भीतारामन, अवसर सचिव

MINISTRY OF PERSONNEL, GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

ORDER

New Delhi, the 17th January, 1990

S. O. 334.—In exercise of the powers conferred by Sub-section (1) of section 5, read with section 6, of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) the Central Government, with the consent of the State Government of Uttar Pradesh, hereby extend the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Uttar Pradesh for investigation of offences as hereunder:—

(a) Offences punishable under section 302 and 201 of the Indian Penal Code, 1860 (45 of 1860) case crime No. 88/89 relating to murder of Sri Piyush Mani Tiwari, son of Shri K. M. Tiwari, Additional Collector, Customs, Indo-Nepal Border, Gorakhpur registered at P.S. Government Railway Police Gorakhpur in the State of Uttar Pradesh.

(b) Attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction arising out of the same facts.

[No. 228/16/89-AVD.II]

G. SITARAMAN, Under Secy.

वित्त मंत्रालय

राजस्व विभाग

नई दिल्ली, 25 नवम्बर, 1989

आय-कर

का.आ. 335. :—आयकर अधिनियम, 1961, (1961 का 43) की धारा 10 के खंड 23(ग) उपखंड (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा "दि कोयम्बटूर डी आर्इओसीईएसई सोसायटी, विणॉप्स हाऊस" को उक्त उपखंड के प्रयोजनार्थ कर निर्धारण वर्ष 1985-86 से 1988-89 तक के लिए अधिसूचित करती है।

[सं. 8494/फा.सं. 197/63/89-आ. कर (नि-1)]

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 24th November, 1989

(INCOME-TAX)

S. O. 335.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "The Coimbatore Diocese Society, Bishop's House", Coimbatore for the purpose of the said sub-clause for the assessment years 1985-86 to 1988-89.

[No. 8494/F. No. 197/63/84-JT (A-1)]

आय-कर

का.आ. 336. :—आयकर अधिनियम 1961, (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा "दि डीआर्इओसीईएसई ऑफ कलकत्ता" को उक्त उपखंड के प्रयोजनार्थ कर निर्धारण वर्ष 1989-90 के लिए अधिसूचित करती है।

[सं. 8495/फा.सं. 197/194/89-आ. कर (नि-1)]

(INCOME-TAX)

S. O. 336.—In exercise of the powers conferred by sub-clause (v) of clause (23-C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "The Diocese of Calcutta" for the purpose of the said sub-clause for the assessment year 1989-90.

[No. 8495/F. No. 197/194/89-JT(AI)]

आय-कर

का.आ. 337. :—आयकर अधिनियम 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा "श्री गुरु सिंह सभा (रजि.), बम्बई" को उक्त उपखंड के प्रयोजनार्थ कर निर्धारण वर्ष 1985-86 से 1989-90 तक के लिए अधिसूचित करती है।

[सं. 8496/फा.सं. 197/157/88-आ. कर (नि-1)]

(INCOME-TAX)

S. O. 337.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sri Guru Singh Sabha (Regd.), Bombay" for the purpose of the said sub-clause for the assessment years 1985-86 to 1989-90.

[No. 8496/F. No. 197/157/88-JT(AI)]

नई दिल्ली, 27 नवम्बर, 1989

आय-कर

का.आ. 338. :—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा "शेठ गोकुलदास तेजपाल चेरिटीज, बम्बई" को उक्त उपखंड के प्रयोजनार्थ कर निर्धारण वर्ष 1989-90 के लिए अधिसूचित करती है।

[सं. 8508/फा.सं. 197/14/89-आ. कर (नि-1)]

New Delhi, the 27th November, 1989

(INCOME-TAX)

S. O. 338.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sheth Goculdas Tejpal Charities, Bombay" for the purpose of the said sub-clause for the assessment year 1989-90.

[No. 8508/F. No. 197/14/89-JT(AI)]

आय-कर

का.आ. 339. :—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "दि काङ्ग्रेशन ऑफ दि फ्रांसिस्केन सिस्टर्स ऑफ दि प्रेजेंटेशन ऑफ दि ब्लैस्ड वर्जिन मेरी, कोयम्बटूर" को उक्त उपखंड के प्रयोजनार्थ कर निर्धारण वर्ष 1989-90 के लिए अधिसूचित करती है।

[सं. 8510/फा.सं. 197/211/89-आ. कर (नि.-1)]

(INCOME-TAX)

S. O. 339.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "The Congregation of the Franciscan Sister of the Presentation of the Blessed Virgin Mary, Coimbatore" for the purpose of the said sub-clause for the assessment year 1989-90.

[No. 8510/F. No. 197/211/89-II(A.I)]

आय-कर

का.आ. 340. :—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "अर्पणा ट्रस्ट, करनाल" को उक्त उपखंड के प्रयोजनार्थ कर निर्धारण वर्ष 1988-89 तथा 1989-90 के लिए अधिसूचित करती है।

[सं. 8511/फा.सं. 197/78/88-आ. कर (नि.-1)]

(INCOME-TAX)

S. O. 340.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Arpana Trust, Karnal" for the purpose of the said sub-clause for the assessment years 1988-89 and 1989-90.

[No. 8511/F. No. 197/78/88-IT(A.I)]

आय-कर

का.आ. 341. :—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "दि मालनकारा सायरियन कनान्या चर्च, चिंगवनम" को उक्त उपखंड के प्रयोजनार्थ कर निर्धारण वर्ष 1987-88 से 1989-90 के लिए अधिसूचित करती है।

[सं. 8512/फा.सं. 197/212/89-आयकर (नि.-1)]

(INCOME-TAX)

S. O. 341.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "The Malankara Syrian Knanaya Church, Chingavanam", for the purpose of the said sub-clause for the assessment years 1987-88 to 1989-90.

[No. 8512/F. No. 197/212/89-IT(A.I)]

आय-कर

का.आ. 342. :—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "भारतीय विद्या भवन, बम्बई" को उक्त उपखंड के प्रयोजनार्थ कर निर्धारण वर्ष 1989-90 के लिए अधिसूचित करती है।

[सं. 8513/फा.सं. 197/78/89-आ. कर (नि.-1)]

(INCOME-TAX)

S. O. 342.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Bharatiya Vidya Bhavan, Bombay" for the purpose of the said sub-clause for the assessment year 1989-90.

[No. 8513/F. No. 197/78/89-II (A. I)]

नई दिल्ली, 30 नवम्बर, 1989

आय-कर

का.आ. 343. :—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "श्री जयगाम भाई दयाभाई चौहान (बायटको) चेरिटेबल ट्रस्ट, नासिक" को उक्त उपखंड के प्रयोजनार्थ कर निर्धारण वर्ष 1987-88 से 1989-90 के लिए अधिसूचित करती है।

[सं. 8524/फा.सं. 197/154/86-आ. कर (नि.-1)]

New Delhi, the 30th November, 1989

(INCOME-TAX)

S. O. 343.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Shri Jairambhai Daya'bhai Chauhan (Bytco) Charitable Trust, Nasik" for the purpose of the said sub-clause for the assessment years 1987-88 to 1989-90.

[No. 8524/F. No. 197/154/86 IT(A.I)]

आय-कर

का.आ. 344. :—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "श्री दत्ता संस्थान, बालेकुन्ड्री" को उक्त उपखंड के प्रयोजनार्थ कर निर्धारण वर्ष 1986-87 से 1989-90 के लिए अधिसूचित करती है।

[सं. 8523/फा.सं. 197/163/89-आ. कर (नि.-1)]

(INCOME-TAX)

S. O. 344.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Shri Datta Sansthan, Balekundri" for the purpose

of the said sub-clause for the assessment years 1986-87 to 1989-90.

[No. 8523/F. No. 197/163/89-IT(A)]

नई दिल्ली, 11 दिसम्बर, 1989

आयकर

का.आ. 345. —आयकर अधिनियम, 1961, (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा "बाबा काशी कमली वाला पंचायत क्षेत्र" को

उक्त उपखंड के प्रयोजनार्थ कर निर्धारण वर्ष 1989-90 के लिए अधिसूचित करती है।

[मं. 8529/फा. सं. 197/105/89-आ. कर (नि.-1)]

दर्शन सिंह, विशेष कार्य अधिकारी

New Delhi, the 11th December, 1989

(INCOME-TAX)

S. O. 345.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Baba Kashi Kamliwala Panchayat Kshetra" for the purpose of the said sub-clause for the assessment year 1989-90.

[No. 8529/F. No. 197/105/89-IT(A)]

DALIP SINGH, Officer on Special Duty

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 12 जनवरी, 1990

का.आ. 346 : —राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम 1970 के खंड 3 के उपखण्ड (ठ) के अनुसरण में, केन्द्रीय सरकार, एतद्द्वारा नीचे दी गयी सारणी के कालम (2) में निर्दिष्ट व्यक्तियों को उक्त सारणी के कालम (3) में निर्दिष्ट व्यक्तियों के स्थान पर कालम (1) में निर्दिष्ट राष्ट्रीयकृत बैंकों का निदेशक नियत करती है :—

सारणी

1	2	3
बैंक आफ बड़ौदा	श्री ए. पी. अय्यर, मुख्य निरीक्षक, निरीक्षण विभाग, भारतीय रिजर्व बैंक, केन्द्रीय कार्यालय, बम्बई	कु. धी. विश्वनाथन
बैंक आफ इंडिया	श्री पी. वी. कुलकर्णी मुख्य अधिकारी, विदेशी निवेश और प्रचारण विभाग, भारतीय रिजर्व बैंक, केन्द्रीय कार्यालय, बम्बई	कु. आर्. टी. बाज

[मं. फ. 9/9/90-बी.ओ.-I]

एम एस, सीतारामन, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 12th January, 1990

S. O. 346.—In pursuance of sub-clause (g) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government hereby appoints the persons speci-

first in column (2) of the Table below as Directors of the nationalised banks specified in column (1) thereof in place of the persons specified in column (3) of the said Table :

TABLE

1	2	3
Bank of Baroda	Shri A. P. Aiyer, Chief Inspector, Inspection Department, Reserve Bank of India., Central Office, Bombay.	Kum. V. Visvanathan
Bank of India	Shri P.B. Kulkarni, Chief Officer, Department of External Investments and Operations, Reserve Bank of India, Central Office, Bombay.	Kum. I.T. Vaz.

[No. F.9/90-BO.—I]

M.S. SEETHARAMAN, Under Secy.

नई दिल्ली, 12 जनवरी, 1990

का.आ. 347 :—भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) की धारा 8 की उपधारा (1) के खण्ड (क) और उपधारा (4) के अनुसरण में, केन्द्रीय सरकार एतद्वारा श्री आर. एन. मल्होत्रा को 4 फरवरी, 1990 से आरम्भ होकर 31 मार्च, 1992 को समाप्त होने वाली अवधि के लिए भारतीय रिजर्व बैंक के गवर्नर के पद पर पुनः नियुक्त करती है।

[सं० एफ. 7 (1)/90-बी.ओ.-I]

डी.आर. मेहता, अपर सचिव

New Delhi, the 12th January, 1990

S. O. 347.—In pursuance of clause (a) of sub-section (1) and sub-section (4) of section 8 of the Reserve Bank of India Act, 1934 (2 of 1934), the Central Government hereby re-appoints Shri R. N. Malhotra as Governor of the Reserve Bank of India for a further period commencing on February 4, 1990 and ending with 31st March, 1992.

[No. F. 7/1/90-BO.I]

D. R. MEHTA, Addl. Secy.

नई दिल्ली, 13 जनवरी, 1990

का.आ. 348 :—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 19 की उपधारा (1)

खण्ड 20 की उपधारा (1) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श से एतद्वारा श्री बी. अटल, वर्तमान प्रबंध निदेशक, भारतीय स्टेट बैंक को तत्काल प्रभाव से 17 फरवरी, 1990 की अवधि तक के लिये भारतीय स्टेट बैंक के अध्यक्ष के रूप में नियुक्त करती है।

[सं० एफ. 8/4/89-बी.ओ.-I (1)]

New Delhi, the 13th January, 1990

S. O. 348.—In pursuance of clause (a) of sub-section (1) of Section 19 and sub-section (1) of section 20 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby appoints Shri V. Atal, presently Managing Director of the State Bank of India as the Chairman of the State Bank of India with immediate effect for the period ending with 17th February, 1990.

[No. F. 8/4/89-BO.I(1)]

का.आ. 349 :—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 19 की उपधारा (1) के खण्ड (क) और धारा 20 की उपधारा (1) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श से एतद्वारा श्री एम.एन. गोईपायिया, वर्तमान अध्यक्ष एवं प्रबंध निदेशक, सेंट्रल बैंक ऑफ इंडिया को 18 फरवरी, 1990 से आरम्भ होकर और 7 जनवरी, 1992 को समाप्त

होने वाली अवधि के लिये भारतीय स्टेट बैंक के अध्यक्ष के रूप में नियुक्त करती है।

[संख्या एफ. 8/4/89-बी.ओ.-I (2)]

मुन्नेश्वर झा, संयुक्त सचिव

Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with the Reserve Bank of India, hereby appoints Shri M. N. Goiporia, presently Chairman and Managing Director of Central Bank of India as the Chairman of the State Bank of India for the period commencing on 18th February, 1990 and ending with 7th July, 1992.

[No. F. 8/4/89-BO.I(2)]

S. O. 349.—In pursuance of clause (a) of sub-section (1) of section 19 and sub-section (1) of section 20 of the State

MANTRESHWAR JHA, Jt. Secy.

कार्यालय मुख्य आयकर आयुक्त (प्रशासन)

अहमदाबाद, 28 नवम्बर, 1989

(आयकर)

का.आ. 350 :—आयकर अधिनियम, 1961 की धारा 120 की उपधारा (1) तथा सा. 27-10-89 को केन्द्रीय प्रत्यक्ष कर बोर्ड द्वारा इस बारे में ऊपर बताई गई धारा के अंतर्गत जारी की गई फा.नं. 279/121/89-आई.टी.जे. के 8478 संख्यक अधिसूचना द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त (प्रशासन), अहमदाबाद एतद्वारा निदेश देते हैं कि आयकर या ब्याजकर अथवा अधिकार के अंतर्गत, अनुसूची के स्तंभ-3 में विनिर्दिष्ट बोर्ड, सर्कल और रेंज में निर्धारित किये जानेवाले सभी व्यक्तियों के संदर्भ में जो आयकर अधिनियम 1961 के धारा 246 के उप धारा-2 के खण्ड-ए से लेकर खण्ड (एच) तक, या कम्पनी (लाभ) अधिकार अधिनियम, 1964 (1964 का 7) की धारा 11, अथवा ब्याजकर अधिनियम, 1974 (1974 का 45) की धारा 15 की उप धारा (1) में उल्लिखित किसी भी आदेश व्यथित हो और उन शक्तियां या व्यक्तियों के प्रवर्गों के संदर्भ में भी जिनके संबंध में बोर्ड ने निर्देश दिया है अथवा आयकर अधिनियम, 1961 की धारा 246 की उप धारा-2 के अनुच्छेद के प्राधान के अनुसार केन्द्रीय प्रत्यक्ष कर बोर्ड या अधोहस्ताक्षरी भविष्य में निदेश दे, अनुसूची के स्तंभ-2 में उल्लिखित आयकर आयुक्त (अपील) अपने कर्तव्यों का पालन करेंगे।

अनुसूची

क्रमांक	आयकर आयुक्त (अपील) का प्रभार और मुख्यालय	निम्नलिखित द्वारा पारित आदेशों के विरुद्ध अपीलों पर अधिकारिता
1	2	3
1.	आयकर आयुक्त (अपील)-III अहमदाबाद.	<p>(क) नीचे बताए गए सहायक आयकर आयुक्त (निरीक्षण) या निर्धारण अधिकारी जो (1-4-1988 से पहले) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों :</p> <p>(1) म.आ.आ. (निरीक्षण) रेंज-6, अहमदाबाद।</p> <p>(2) स.आ.आ. (निरीक्षण) निर्धारण-1 अहमदाबाद।</p> <p>(3) म.आ.आ. (निरीक्षण) रेंज-7, अहमदाबाद।</p> <p>(ख) नीचे बताए गए उ.आ.आ. या निर्धारण अधिकारी (सुरेन्द्र-नगर और पाटण के भी सम्मिलित हैं) जो (1-4-1988 को या उसके बाद) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों :</p> <p>(1) उ.आ.आ., रेंज-6, अहमदाबाद।</p> <p>(3) उ.आ.आ. (निर्धारण) विशेष रेंज-1, अहमदाबाद।</p> <p>(3) उ.आ.आ., रेंज-7, अहमदाबाद।</p> <p>(ग) सम्पदा शुल्क सर्कल, अहमदाबाद।</p>

1	2	3
2. आयकर आयुक्त (अपील)-IV, अहमदाबाद।	(क) नीचे बताए गए स.आ.आ. (निरीक्षण) या निर्धारण अधिकारी जो (1-4-1988 से पहले) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों : (1) स.आ.आ. (निरीक्षण) रैंज-VIII, अहमदाबाद (2) स.आ.आ. (निरीक्षण) रैंज-V, अहमदाबाद (3) स.आ.आ. (निरीक्षण) निर्धारण-II, अहमदाबाद (4) स.आ.आ. (निरीक्षण) निर्धारण-IV, अहमदाबाद। (ख) नीचे बताए गए उ.आ.आ. या निर्धारण अधिकारी (महसाणा भी सम्मिलित) जो (1-4-1988 को या उसके बाद) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों : (1) उ.आ.आ. रैंज-8, अहमदाबाद। (2) उ.आ.आ. रैंज-5, अहमदाबाद। (3) उ.आ.आ. (निर्धारण) विशेष रैंज-2, अहमदाबाद (4) उ.आ.आ. (निर्धारण) विशेष रैंज-4, अहमदाबाद	
3. आयकर आयुक्त (अपील)-V अहमदाबाद।	(क) नीचे बताए गए सहायक आयकर आयुक्त (निरीक्षण) या निर्धारण अधिकारी जो (1-4-1988 से पहले) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों : (1) स.आ.आ. (निरीक्षण), रैंज-I, अहमदाबाद (2) स.आ.आ. (निरीक्षण) रैंज-IV, अहमदाबाद (3) स.आ.आ. (निरीक्षण) रैंज-VI (बेतन) अहमदाबाद (4) स.आ.आ. (निरीक्षण) अनुसंधान/सर्वेक्षण, अहमदाबाद (5) स.आ.आ. (निरीक्षण) निर्धारण, 5 अहमदाबाद। (ख) नीचे बताए गए उ.आ.आ. या निर्धारण अधिकारी जो (1-4-1988 को या उसके बाद) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों : (1) उ.आ.आ. रैंज-1, अहमदाबाद (2) उ.आ.आ. रैंज-4, अहमदाबाद (3) उ.आ.आ. (निर्धारण) विशेष रैंज-5, अहमदाबाद। (ग) आयकर आयुक्त, गुजरात-I और गुजरात-III, अहमदाबाद के अधिकारिता में पड़ने वाले कोई भी सर्कल/वार्ड या रैंज जिसे इस आदेश के अधीन अन्य किसी आयकर आयुक्त (अपील) को समनुद्दिष्ट नहीं किया गया हो।	
4. आयकर आयुक्त (अपील)-I बड़ौदा।	(क) नीचे बताए गए स.आ.आ. (निरीक्षण) या निर्धारण अधिकारी जो (1-4-1988 से पहले) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों : (1) स.आ.आ. (निरीक्षण) बड़ौदा, रैंज-I, बड़ौदा (2) स.आ.आ. (निरीक्षण) केन्द्रीय बड़ौदा (केन्द्रीय सर्कल, मूरत इसमें शामिल नहीं है)। (ख) निम्नलिखित सर्कलों में समाविष्ट होने वाले आयकर कार्यालय के सभी वार्ड/सर्कल जो 1-4-88 से पहले विद्यमान थे : (1) सर्कल-I, बड़ौदा (2) आणंद सर्कल (3) पेटलाद सर्कल	

1	2	3
		(ग) नीचे बताए गए उ.आ. आ. या निर्धारण अधिकारी (आणंद और पेटलाद के भी सम्मिलित हैं) जो (1-4-1988 को या उसके बाद) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों :
		(1) उ.आ.आ, रेंज-1, बड़ौदा
		(2) उ.आ.आ, केन्द्रीय रेंज, बड़ौदा, (केन्द्रीय सर्कल, सूरत इसमें शामिल नहीं है)
		(घ) उपर्युक्त मद (ख) में समाविष्ट वार्ड/सर्कलों के सभी निर्धारण अधिकारी जिनके पदनाम 1-4-1988 से बदले गए।
		(च) आयकर उप निदेशक (अनुसंधान) बड़ौदा
5. आयकर आयुक्त (अपील)-2, बड़ौदा।		(क) नीचे बताए गए स.आ.आ (निर्धारण) या निर्धारण अधिकारी जो (1-4-88 से पहले) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों :
		(1) स.आ.आ (निरीक्षण), रेंज-II, बड़ौदा
		(2) स.आ.आ (निरीक्षण), निर्धारण-I, बड़ौदा।
		(3) स.आ.आ (निरीक्षण), निर्धारण-II, बड़ौदा।
		(ख) निम्नलिखित सर्कलों के समाविष्ट होनेवाले आयकर कार्यालय से सभी वार्ड/सर्कल जो 1-4-1988 से पहले विद्यमान थे :
		(1) सर्कल-II बड़ौदा
		(2) सर्कल-III बड़ौदा
		(3) नडियाद सर्कल
		(4) गोधरा सर्कल
		(5) भरुच सर्कल
		(6) सम्पदा शुल्क सर्कल, बड़ौदा
		(ग) नीचे बताए गए उ.आ.आ या निर्धारण अधिकारी (गोधरा, भरुच और नडियाद के भी शामिल हैं) जो (1-4-1988 को या उसके बाद) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों :
		(1) उ.आ.आ, रेंज-2, बड़ौदा
		(2) उ.आ.आ (निर्धारण, विशेष रेंज-I, बड़ौदा
		(3) उ.आ.आ (निर्धारण) विशेष रेंज-II बड़ौदा।
		(घ) ऊपर के मद (ख) में समाविष्ट वार्ड/सर्कलों के सभी निर्धारण अधिकारी जिनके पदनाम 1-4-1988 से बाद ले गए।
		(च) आयकर आयुक्त, बड़ौदा प्रभार की अधिकारिता में पड़नेवाले कोई भी वार्ड, सर्कल या रेंज जिसे इस आदेश के अधीन अन्य किसी आयकर आयुक्त (अपील) को समनुदिष्ट नहीं किया गया हो।

2. यह अधिसूचना 27-10-1989 से प्रभावी होगी।

[फा.सं.न.उ.आ/मुख्या. 1/2/न्या/4-1/89-90]

आर.सी. बर्मा मुख्य आयकर आयुक्त (प्रशासन)
गुजरात अहमदाबाद।

OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX (Administration)

Ahmedabad. the 28th November, 1989

(INCOME-TAX)

S.O. 350 :—In exercise of the powers conferred on the undersigned by sub-section (1) of Section 120 of the Income-tax act, 1961 and by the Notification No. 8478 F. No. 279/121/89-ITJ dated 27-10-1989 issued by the Central Board of Direct Taxes, New Delhi, in this behalf under the said section, the Chief Commissioner of Income-tax (Administration) Gujarat, Ahmedabad hereby directs that the Commissioners of Income-tax (Appeals) mentioned in Column (2) of Schedule below shall perform their functions in respect of such persons assessed to Income-tax or Sur-tax or Interest-tax in the Income Tax Wards, Circles and Ranges specified in Column (3) thereof, as are aggrieved by any of the orders mentioned in clauses (a) to (h) of sub-section (2) of Section 246 of the Income-tax Act, 1961 or section 11 of Companies (Profits) Sur-tax Act 1964 (7 of 1964) or sub-section (1) of Section 15 of the Interest Tax Act, 1974 (45 of 1974) and also in respect of such persons or classes of persons as the Board has directed or the Central Board of Direct Taxes or the undersigned may direct in future in accordance with the provisions of clauses (i) of sub-section (2) of Section 246 of the Income-tax Act, 1961.

SCHEDULE

Sr. No.	Charge of the Commissioner of the Income Tax (Appeals) with H. Qrs.	Jurisdiction over appeals against orders passed by :
(1)	(2)	(3)
1.	Commissioner of Income-tax (Appeals)-III, Ahmedabad.	(a) The following I.A.Cs. or Assessing Officers falling (prior to 1-4-1988) within the jurisdiction of : (i) I.A.C. Range-VI, Ahmedabad, (ii) I.A.C. (Assessment)-I, Ahmedabad. (iii) I.A.C., Range-VII, Ahmedabad. (b) The following Deputy Commissioner of Income-tax or Assessing Officers (including those at Surendranagar and Patan) falling on or after (1-4-1988) with the jurisdiction of : (i) Deputy Commissioner of Income-tax, Range-6, Ahmedabad, (ii) Deputy Commissioner of Income-tax, (Assessment) Special Range-1, Ahmedabad, (iii) Deputy Commissioner of Income-tax, Range-7, Ahmedabad. (c) Estate Duty Circle, Ahmedabad.
II.	Commissioner of Income-tax (Appeals) IV Ahmedabad.	(a) The following I.A.Cs or Assessing Officers fall in (prior to 1-4-1988) within the jurisdiction of : (i) I.A.C. Range-VIII, Ahmedabad, (ii) I.A.C. Range-V, Ahmedabad, (iii) I.A.C. (Assessment)-II , Ahmedabad, (iv) I.A.C. (Assessment)-IV, Ahmedabad,

(1)	(2)	(3)
		(b) The following Deputy Commissioners of Income-tax or Assessing Officers (including those at Mehsana) falling (on or after 1-4-1988) within the jurisdiction of : <ul style="list-style-type: none"> (i) Deputy Commissioner of Income-tax, Range-8, Ahmedabad, (ii) Deputy Commissioner of Income-tax, Range-5, Ahmedabad, (iii) Deputy Commissioner of Income-tax (Assessment) Special Range-2, Ahmedabad. (iv) Deputy Commissioner of Income-tax, (Assessment) Special Range-4, Ahmedabad.
III. Commissioner of Income-tax (Appeals)-V. Ahmedabad.		(a) The following I.A.Cs or Assessing Officers falling (prior to 1-4-1988) within the jurisdiction of : <ul style="list-style-type: none"> (i) I.A.C. Range-I, Ahmedabad, (ii) I.A.C. Range-IV, Ahmedabad, (iii) I.A.C. Range-VI (Salary) Ahmedabad, (iv) I.A.C. (Investigation/Survey) Ahmedabad, (v) I.A.C. (Assessment)-V, Ahmedabad. (b) The following Deputy Commissioners of Income-tax or Assessing Officers falling (on or after 1-4-1988) within the jurisdiction of : <ul style="list-style-type: none"> (i) Deputy Commissioner of Income-tax, Range-I, Ahmedabad, (ii) Deputy Commissioner of Income-tax, Range-4, Ahmedabad, (iii) Deputy Commissioner of Income-tax, (Assessment) Special Range-5, Ahmedabad. (c) Any Circles/Wards or Ranges of Commissioners of Income-tax. Gujarat-I, & Gujarat-III, Ahmedabad's charge not specifically assigned to any other Commissioner of Income-tax (Appeals) under this order.
IV. Commissioner of Income-tax (Appeals)-I. Baroda.		(a) The following I.A.Cs. or Assessing Officers falling (prior to 1-4-1988) within the jurisdiction of : <ul style="list-style-type: none"> (i) I.A.C., Baroda Range-I, Baroda, (ii) I.A.C. (Central), Baroda (excluding Central Circles, Surat). (b) All Ward/Circles of Income-tax offices as existing prior to 1-4-1988 comprising in the following Circles: <ul style="list-style-type: none"> (i) Circle-I, Baroda, (ii) Anand Circle, (iii) Petlad Circle.

(1)	(2)	(3)
		<p>(c) The following Deputy Commissioners of Income-tax or Assessing Officers (including those at Anand and Petlad) falling on or after 1-4-1988) within the jurisdiction of :</p> <p>(i) Deputy Commissioner of Income-tax, Baroda Range-I, Baroda,</p> <p>(ii) Deputy Commissioner of Income-tax, Central Range, Baroda (excluding Central Circles, Surat)</p> <p>(d) All Assessing Officers of the Wards/Circles comprising in item No. (b) above as re-designated with effect from 1-4-1988 :</p> <p>(e) The Deputy Director of Income-tax (Investigation) Baroda.</p>

V. Commissioner of Income tax (Appeals) (a) The following I.A.Cs. or Assessing Officers falling II, Baroda.

- (prior to 1-4-1988) within the jurisdiction of :
- (i) I.A.C., Baroda Range-II, Baroda,
 - (ii) I.A.C. (Assessment)-I Baroda
 - (iii) I.A.C. (Assessment)-II Baroda.
- (b) All wards/Circles of Income-tax offices as existing prior to 1-4-1988 comprising in the following Circle:
- (i) Circle-II Baroda,
 - (ii) Circle-III Baroda,
 - (iii) Nadiad Circle,
 - (iv) Godhra Circle,
 - (v) Broach Circle,
 - (vi) Estate Duty Circle Baroda.
- (c) The following Deputy Commissioners of Income-tax or Assessing Officers (including those at Godhra Broach & Nadiad) falling (on or after 1-4-1988) within the jurisdiction of :
- (i) Deputy Commissioner of Income-tax, Baroda-Range-2, Baroda.
 - (ii) Deputy Commissioner of Income-tax, (Assessment), Special Range-I, Baroda
 - (iii) Deputy Commissioner of Income-tax (Assessment), (Special Range-2), Baroda.
- (d) All Assessing Officers of Wards/Circles comprising in item No. (b) above as redesignated with effect from 1-4-1988.
- (e) Any Wards/Circles or Ranges of Commissioner of Income-tax, Baroda Charge not specifically assigned to any other Commissioners of Income-tax (Appeals) under this order.

2. This Notification shall come into force with effect from 27-10-1989.

[F.No. DC/HQ.I/II/Jud./IV-1/89-90]

R.C. VERMA, Chief Commissioner of Income-tax
(Administration) Gujarat, Ahmedabad.

कार्यालय मुख्य आयकर आयुक्त (तकनीकी)

अहमदाबाद, 4 दिसम्बर, 1989

(आयकर)

का.आ. 351.—आयकर अधिनियम, 1961 की धारा 120 की उप धारा (1) तथा भा. 27-10-89 के केन्द्रीय प्रत्यक्ष कर बोर्ड द्वारा इस बारे में ऊपर बताई गई धारा के अंतर्गत जारी किए गये का.नं. 279/121/89-आई.टी.जे.के. 8478 संख्यांक अधिसूचना द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त (तकनीकी) अहमदाबाद एतद्वारा निदेश देने हैं कि आयकर या व्याजकर अथवा अधिकार के अंतर्गत अनुसूची के स्तंभ (3) में विनिर्दिष्ट बोर्ड, सर्कल और रेंज में निर्धारित किये जाने वाले सभी व्यक्तियों के संदर्भ में जो आयकर अधिनियम 1961 की धारा 246 की उप धारा (2) के अनुच्छेद (ए) से लेकर अनुच्छेद (एच) तक या कम्पनी (लाभ) अधिकार अधिनियम 1964 की धारा 15 की उप धारा (1) में उल्लिखित किसी भी आदेश से व्यथित हो और उन व्यक्तियों या व्यक्तियों के प्रवर्गों के संदर्भ में भी, जिनके संबंध में बोर्ड ने निदेशक दिया है अथवा आयकर अधिनियम 1961 की धारा-246 की उप धारा (2) के अनुच्छेद (1) के प्रावधानों के अनुसार केन्द्रीय प्रत्यक्ष कर बोर्ड या अधोहस्ताक्षरी भविष्य में निदेश दे, अनुसूची के स्तंभ (2) में उल्लिखित आयकर आयुक्त (अपील) अपने कर्तव्यों का पालन करेंगे।

अनुसूची

क्रमांक आयकर आयुक्त (अपील) का प्रभार और मुख्यालय निम्नलिखित द्वारा पारित आदेशों के विरुद्ध अपीलों पर अधिकारिता

1	2	3
1. आयकर आयुक्त (अपील)-1, अहमदाबाद	(क) नीचे बताए गए स.आ.आ. (निरीक्षण) या निर्धारण अधिकारी जो (1-4-1988 से पहले) निम्नलिखित की अधिकारिता के अंतर्गत पड़ने हों ;	(1) स.आ.आ. (निरीक्षण) केन्द्रीय रेंज-1, अहमदाबाद। (2) स.आ.आ. (निरीक्षण) केन्द्रीय रेंज-2 अहमदाबाद (केन्द्रीय सर्कल, राजकोट और केन्द्रीय सर्कल, जामनगर इसमें शामिल नहीं है) (3) स.आ.आ. (निरीक्षण) रेंज-3, अहमदाबाद।
	(ख) नीचे बताए गए उ.आ.आ. या निर्धारण अधिकारी (पालन-पुर सम्मिलित) जो (1-4-1988 को या उसके बाद) निम्नलिखित की अधिकारिता के अंतर्गत पड़ने हों।	(1) उ.आ.आ., केन्द्रीय रेंज-1, अहमदाबाद। (2) उ.आ.आ., केन्द्रीय रेंज-2, अहमदाबाद (केन्द्रीय सर्कल, राजकोट और केन्द्रीय सर्कल जामनगर इसमें शामिल नहीं है) (3) उ.आ.आ., रेंज-3, अहमदाबाद। (4) उ.आ.आ. (निर्धारण) विशेष रेंज-6, अहमदाबाद।
	(ग) निम्नलिखित आ.उ. निदेशक (अनुसंधान)	(1) आ.उ. निदेशक (अनुसंधान) यूनिट-1, अहमदाबाद। (2) आ.उ. निदेशक (अनुसंधान) यूनिट-2, अहमदाबाद। (3) आ.उ. निदेशक (अनुसंधान) यूनिट-3, अहमदाबाद।
2. आयकर आयुक्त (अपील)-II, अहमदाबाद।	(क) नीचे बताए गए स.आ.आ. (निरीक्षण) या निर्धारण अधिकारी जो (1-4-1988 से पहले) निम्नलिखित की अधिकारिता के अंतर्गत पड़ने हों।	(1) स.आ.आ. (निरीक्षण) रेंज-1, अहमदाबाद। (2) स.आ.आ. (निरीक्षण) रेंज-2, अहमदाबाद। (3) स.आ.आ. (निरीक्षण) निर्धारण-3, अहमदाबाद।

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(ख) नीचे बताए गए उ.आ.आ. या निर्धारण अधिकारी हिम्मतनगर और मोडासा के भी शामिल हैं (जो) (1-4-1988 से या उसके बाद) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों :

- (1) उ.आ.आ. रेंज-2, अहमदाबाद ।
- (2) उ.आ.आ. रेंज-2, अहमदाबाद ।
- (3) उ.आ.आ. (निर्धारण) विशेष रेंज-3, अहमदाबाद ।

(ग) आयकर आयुक्त, गुजरात-2, प्रभार के अंतर्गत पड़ने वाले कोई भी सर्कल/वार्ड या रेंज, जिसे इस आदेश के अधीन अन्य किसी आयकर आयुक्त (अपील) की समनुदिष्टि नहीं किया गया हो ।

3. आयकर आयुक्त (अपील)-I राजकोट ।

(क) नीचे बताए गए स.आ.आ. (निरीक्षण) या निर्धारण अधिकारी जो (1-4-1988 से पहले) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों :

- (1) स.आ.आ. (निरीक्षण) रेंज-1, राजकोट ।
- (2) स.आ.आ. (निरीक्षण) भावनगर रेंज, भावनगर ।
- (3) स.आ.आ. (निरीक्षण) निर्धारण, राजकोट ।

(ख) निम्नलिखित सर्कलों में समाविष्ट होने वाले आयकर कार्यालय के सभी सार्ड/सर्कल जो 1-4-88 से पहले विद्यमान थे :

- (1) सर्कल-1, राजकोट
- (2) भावनगर सर्कल, भावनगर
- (3) जुनागढ़ सर्कल, जुनागढ़
- (4) अमरेली सर्कल, अमरेली ।

(ग) नीचे बताए गए उ.आ.आ. या निर्धारण अधिकारी (जुनागढ़ और अमरेली के भी शामिल हैं) जो (1-4-1988 को या उसके बाद) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों :

- (1) उ.आ.आ. रेंज-1, राजकोट ।
- (2) उ.आ.आ. भावनगर रेंज, भावनगर ।
- (3) उ.आ.आ. (निर्धारण) विशेष रेंज, राजकोट ।

(घ) ऊपर के मद (ख) में समाविष्ट वार्ड/सर्कलों के सभी निर्धारण अधिकारी जिनके पदनाम 1-4-1988 से बदले गए ।

(च) आरकर उप निवेशक (अनुसंधान), राजकोट ।

4. आयकर आयुक्त (अपील)-II राजकोट ।

(क) नीचे बताए गए स.आ.आ. (निरीक्षण) या निर्धारण अधिकारी जो (1-4-1988 से पहले) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों ।

- (1) स.आ.आ. (निरीक्षण), रेंज-2, राजकोट ।
- (2) स.आ.आ. (निरीक्षण) जामनगर रेंज, जामनगर ।
- (3) स.आ.आ. (निरीक्षण) केन्द्रीय रेंज-2, अहमदाबाद के केन्द्रीय सर्कल, राजकोट और केन्द्रीय सर्कल, जामनगर ।

(ख) निम्नलिखित सर्कलों में समाविष्ट होने वाले आयकर कार्यालय के सभी वार्ड/सर्कल जो 1-4-1988 से पहले विद्यमान थे :

- (1) सर्कल-2, राजकोट
- (2) मोरबी सर्कल, मोरबी

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		<ul style="list-style-type: none"> (2) मोरबी सर्कल, मोरबी (3) जामनगर सर्कल, जामनगर (4) भुज सर्कल, भुज (5) पोरबन्दर सर्कल, पोरबन्दर (6) केन्द्रीय सर्कल, राजकोट (7) केन्द्रीय सर्कल, जामनगर और (8) सम्पदा शुल्क सर्कल, राजकोट
		<p>(ग) नीचे बताए गए उ.आ.आ. या निर्धारण अधिकारी (मोरबी, पोरबन्दर और भुज के भी सम्मिलित हैं (जो) (1-4-1988 को या उनके बाद) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों :</p> <ul style="list-style-type: none"> (1) उ.आ.आ., राजकोट रेंज-2, राजकोट। (2) उ.आ.आ. जामनगर रेंज, जामनगर (3) उ.आ.आ., केन्द्रीय रेंज-2, अहमदाबाद के केन्द्रीय सर्कल, राजकोट और केन्द्रीय सर्कल, जामनगर।
		<p>(घ) उपर्युक्त मद (ख) में समाविष्ट बार्ड/सर्कलों के सभी निर्धारण अधिकारी जिनके पदनाम 1-4-1988 से बबले गए।</p>
		<p>(ङ) आयकर आयुक्त, राजकोट प्रभार के अंतर्गत पड़ने वाले कोई भी सर्कल/बार्ड या रेंज जिसे इस आदेश के अधीन अन्य किसी आयकर आयुक्त (अपील) को समनुविष्ट नहीं किया गया हो।</p>
5. आयकर आयुक्त (अपील) सूत्र		<p>(क) नीचे बताए गए स.आ.आ. निरीक्षण) या निर्धारण अधिकारी जो (1-4-1988 से पहले) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों</p> <ul style="list-style-type: none"> (1) स.आ.आ. (निरीक्षण) सूत्र रेंज-1, सूत्र। (2) स.आ.आ. (निरीक्षण) सूत्र रेंज-2, सूत्र (3) स.आ.आ. (निरीक्षण) केन्द्रीय रेंज, बड़ौदा के केन्द्रीय सर्कल, सूत्र। (4) स.आ.आ. (निरीक्षण) निर्धारण सूत्र।
		<p>(ख) निम्नलिखित सर्कलों में समाविष्ट होने वाले आयकर कार्यालय के सभी बार्ड/सर्कल जो 1-4-1988 से पहले विद्यमान थे :</p> <ul style="list-style-type: none"> (1) सर्कल-1, सूत्र (2) सर्कल-2, सूत्र (3) सर्कल-3, सूत्र (4) विशेष सर्वेक्षण सर्कल, सूत्र (5) धलसाड सर्कल, धलसाड (6) वापी सर्कल, वापी (7) नवसारी सर्कल, नवसारी (8) सम्पदा शुल्क सर्कल, सूत्र
		<p>(ग) नीचे बताए गए उ.आ.आ. या निर्धारण अधिकारी जो (1-4-1988 को या उसके बाद) निम्नलिखित की अधिकारिता के अंतर्गत पड़ते हों :</p> <ul style="list-style-type: none"> (1) उ.आ.आ. सूत्र रेंज, -1 सूत्र (2) उ.आ.आ. सूत्र रेंज-2, सूत्र (3) उ.आ.आ., केन्द्रीय रेंज, बड़ौदा के केन्द्रीय सर्कल, सूत्र। (4) उ.आ.आ. (निर्धारण) विशेष रेंज, सूत्र

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- (घ) उपर के मद (ख) में समाविष्ट वार्ड/सर्कलों के सभी निर्धारण अधिकारी जिनके पदनाम 1-4-1988 में बदले गये।
- (च) आ.उ. निदेशक (अनुसंधान), सूरत
- (छ) आयकर आयुक्त, सूरत प्रभार के अंतर्गत पड़ने वाले कोई भी सर्कल/वार्ड या रेंज जिसे इस आदेश के अधीन अन्य किसी आयकर आयुक्त (अपील) को समनुविष्ट नहीं किया गया हो।

2. यह अधिसूचना 27-10-1989 में प्रभावी होगी।

[फा. सं. न.उ.आ./मुख्य 1/2/न्या/4-1-/89-90]

ओ. पी. शर्मा,

मुख्य आयकर आयुक्त (तकनीकी)

गुजरात, अहमदाबाद।

CHIEF COMMISSIONER OF INCOME-TAX (TECHNICAL)

Ahmedabad, the 4th December, 1989

(Income-tax)

S.O. 351 :—In exercise of the powers conferred on the undersigned by sub-section (1) of section 120 of the Income-tax Act 1961 and by the Notification No. 8478 F. No. 279/121/89-ITJ dated 27-10-1989 issued by the Central Board of Direct Taxes, New Delhi, in this behalf under the said section, the Chief Commissioner of Income-tax (Technical) Gujarat, Ahmedabad hereby directs that the Commissionres of Income-tax (Appeals) mentioned in Column 2 of the Schedule below shall perform their functions in respect of such persons assessed to Income-tax or Sur-tax or Interest-tax in the Income-tax Wards, Circles and Ranges specified in Column 3 thereof, as are aggrieved by any of the orders mentioned in clauses (a) to (h) of sub-section (2) of Section 246 of the Income-tax Act 1961 or section 11 of Companies (Profits) Sur-tax Act 1964 (7 of 1964) or sub-sections (1) of Section 15 of the Interest-tax Act 1974 (45 of 1974) and also in respect of such persons or classes of persons as the Board has directed or the Central Board of Direct Taxes or the undersigned may direct in future in accordance with the provisions of clause (i) of sub-section (2) of Section 246 of the Income-tax Act, 1961.

SCHEDULE

Sr. No.	Charge of the Commissioner of Income-tax(Appeals) with Head Quarters.	Jurisdiction over appeals against orders passed by:
(1)	(2)	(3)
I.	Commissioner of Income-tax (Appeals)-I, Ahmedabad.	<p>(a) The following I.A.Cs or Assessing Officers falling (prior to 1-4-1988), within the jurisdiction of :</p> <p>(i) I.A.C., Central Range, -I, Ahmedabad.</p> <p>(ii) I.A.C., Central Range-II, Ahmedabad (excluding Central Circle Rajkot and Central Circle, Jamnagar).</p> <p>(iii) I.A.C., Ahmedabad Range-III, Ahmedabad.</p> <p>or</p> <p>(b) The following Deputy Commissioners of Income-tax or Assessing Officers (including those at Palanpur), falling (on or after 1-4-1988) within the jurisdiction of :</p> <p>(i) Deputy Commissioner of Income-tax-Central Range-I, Ahmedabad.</p>

(1)	(2)	(3)
		<ul style="list-style-type: none"> (ii) Deputy Commissioner of Income -tax, Central Range-2, Ahmedabad (excluding Central Circle, Rajkot and Central Circle, Jamnagar). (iii) Deputy Commissioner of Income-tax, Ahmedabad Range-3, Ahmedabad. (iv) Deputy Commissioner of Income-tax (Assessment) Special Range-6, Ahmedabad. (c) The following Deputy Directors of Income-tax (Investigation): <ul style="list-style-type: none"> (i) Deputy Director of Income-tax (Investigation) Unit-I, Ahmedabad. (ii) Deputy Director of Income-tax (Investigation) Unit-II, Ahmedabad. (iii) Deputy Director of Income-tax, (Investigation) Unit-III, Ahmedabad.
II. Commissioner of Income-tax (Appeals)-II, Ahmedabad.		<ul style="list-style-type: none"> (a) The following I.A.Cs or Assessing Officers falling (prior to 1-4-1988) within the jurisdiction of : <ul style="list-style-type: none"> (i) I.A.C., Range-IX, Ahmedabad. (ii) I.A.C., Range-II, Ahmedabad. (iii) I.A.C. (Assessment)-III, Ahmedabad. (b) The following Deputy Commissioners of Income-tax or Assessing Officers (including those at Himatnagar and Modasa) falling (on or after 1-4-1988) within the jurisdiction of : <ul style="list-style-type: none"> (i) Deputy Commissioner of Income-tax, Range-9 Ahmedabad. (ii) Deputy Commissioner of Income-tax, Range-2 Ahmedabad. (iii) Deputy Commissioner of Income-tax (Assessment) Special Range-3, Ahmedabad. (c) Any Circle/Wards or Ranges of Commissioner of Income tax, Gujarat-II Charge at Ahmedabad not specifically-assigned to any other Commissioner of Income-tax (Appeals) under this order.
III. Commissioner of Income-tax (Appeals)-I, Rajkot.		<ul style="list-style-type: none"> (a) The following I.A.Cs or Assessing Officers falling (prior to 1-4-1988) within the jurisdiction of : <ul style="list-style-type: none"> (i) I.A.C., Rajkot Range-I, Rajkot. (ii) I.A.C., Bhavnagar Range, Bhavnagar. (iii) I.A.C. (Assessment), Rajkot. (b) All Wards/Circles of Income-tax Offices as existing prior to 1-4-1988 comprising in the following Circles:— <ul style="list-style-type: none"> (i) Circle-I, Rajkot. (ii) Bhavnagar Circle, Bhavnagar. (iii) Junagarh Circle, Junagadh. (iv) Amreli Circle, Amreli.

(1)	(2)	(3)
		<p>(c) The following Deputy Commissioners of Income-tax or Assessing Officers (including those at Junagadh and Amreli) falling (on or after 1-4-1988) within the jurisdiction of :</p> <p>(i) Deputy Commissioner of Income-tax, Rajkot Range-1, Rajkot.</p> <p>(ii) Deputy Commissioner of Income-tax, Bhavnagar Range, Bhavnagar.</p> <p>(iii) Deputy Commissioner of Income-tax (Assessment) Special Range, Rajkot.</p> <p>(d) All Assessing Officers of the Wards/Circles comprising in item (b) above as redesignated with effect from 1-4-1988.</p> <p>(e) The Deputy Director of Income-tax (Investigation), Rajkot.</p>
IV. Commissioner of Income-tax (Appeals)-II, Rajkot.		<p>(a) The following I.A.Cs or Assessing Officers falling (prior to 1-4-1988), within the jurisdiction of :</p> <p>(i) I.A.C., Rajkot, Range-II, Rajkot.</p> <p>(ii) I.A.C., Jamnagar Range, Jamnagar.</p> <p>(iii) Central Circle, Rajkot and Central Circle, Jamnagar of I.A.C., Central Range II, Ahmedabad.</p> <p>(b) All Wards/Circles of Income-tax Offices as existing prior to 1-4-1988 comprising in the following Circles.</p> <p>(i) Circle-II, Rajkot.</p> <p>(ii) Morvi Circle, Morvi.</p> <p>(iii) Jamnagar Circle, Jamnagar.</p> <p>(iv) Bhuj Circle, Bhuj.</p> <p>(v) Porbandar Circle, Porbandar.</p> <p>(vi) Central Circle, Rajkot.</p> <p>(vii) Central Circle, Jamnagar ; and</p> <p>(viii) Estate Duty Circle, Rajkot.</p> <p>(c) The following Deputy Commissioners of Income-tax or Assessing Officers (including those at Morvi, Porbandar and Bhuj falling (on or after 1-4-1988) within the jurisdiction of :</p> <p>(i) Deputy Commissioner of Income-tax, Rajkot Range-2, Rajkot.</p> <p>(ii) Deputy Commissioner of Income-tax Jamnagar, Range, Jamnagar.</p> <p>(iii) Central Circle, Rajkot and Central Circle, Jamnagar of Deputy Commissioner of Income-tax Central Range-2, Ahmedabad.</p> <p>(d) All Assessing Officers of Wards/Circles comprising in item No. (C) above as redesignated with effect from 1-4-1988.</p>

(1)	(2)	(3)
V. Commissioner of Income-tax (Appeals) Surat.		(e) Any Wards/Circles or Range of Commissioner of Income-tax, Rajkot Charge not specifically assigned to any other Commissioner of Income-tax (Appeals) under this order.
		(a) The following I.A.Cs. or Assessing Officers falling (prior to 1-4-1988) within the jurisdiction of : (i) I.A.C., Surat Range-I, Surat. (ii) I.A.C., Surat Range-II, Surat. (iii) Central Circle, Surat of I.A.C., Central Range, Baroda. (iv) I.A.C. (Assessment), Surat. (b) All Wards/Circles of Income-tax Offices as existing prior to 1-4-1988 comprising in the following Circles: (i) Circle-I, Surat. (ii) Circle-II, Surat. (iii) Circle-III, Surat. (iv) Special Survey Circle, Surat. (v) Bulsar Circle, Bulsar (vi) Vapi Circle, Vapi. (vii) Navsari Circle, Navsari. (viii) Estate Duty Circle, Surat. (c) The following Deputy Commissioners of Income-tax or Assessing Officers falling (on or after 1-4-1988) within the jurisdiction of : (i) Deputy Commissioner of Income-tax Surat Range-1' Surat. (ii) Deputy Commissioner of Income-tax Surat Range-2, Surat. (iii) Central Circles, Surat of Deputy Commissioner of Income-tax, Central Range, Baroda. (iv) Deputy Commissioner of Income-tax (Assessment) Special Range, Surat. (d) All Assessing Officers of the Wards/Circles comprising in item (b) above as redesignated with effect from 1st April, 1988. (e) The Deputy Director of Income Tax (Investigation) Surat. (f) Any Wards/Circles or Ranges of Commissioner of Income-tax, Surat Charge not specifically assigned to any other Commissioner of Income-tax (Appeals) under this order.

2. This Notification shall come into force with effect from 27-10-1989.

[F. No. DC/HQ./1/II/Jud./IV/-1/89-90]

O. P. SHARMA, Chief Commissioner of Income-tax,
(Technical) Gujarat, Ahmedabad.

वाणिज्य मंत्रालय

नई दिल्ली, 10 फरवरी, 1990

का.आ. 352 :—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स कोरोमण्डल पेस्ट कंट्रोल सर्विसेज, 42-1-24 रंगनायडु स्ट्रीट, काकीनाडा-533007 को (1) तेल रहित चावल की भूसी और (2) हड्डियों का चूरा, सींग तथा खुरों का काकीनाडा में निर्यात में पूर्व धुँसीकरण के लिए 23 नवंबर 1989 से एक वर्ष की अवधि के लिए इन शर्तों के अधीन मान्यता देती है कि उक्त अभिकरण तेल रहित चावल भूसी के निर्यात (निरीक्षण) नियम, 1966 के नियम 4 के उप नियम (4) तथा हड्डियों का चूरा, सींग तथा खुरों के निर्यात (निरीक्षण) नियम, 1977 के नियम 5 के अन्तर्गत धुँसीकरण का प्रमाणपत्र देने के लिए उक्त अभिकरण द्वारा अपनाई पद्धति की जांच करने के संबंध में निर्यात निरीक्षण परिषद द्वारा मनोनीत किसी भी अधिकारी को पर्याप्त सुविधाएं देगा।

[फाइल सं. 5/13/88-ई.आई.एण्ड.ई.पी.]

MINISTRY OF COMMERCE

New Delhi, the 10th February, 1990

S.O. 352.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963, the Central Government hereby recognises for a period of one year with effect from 23rd November, 1989 M/s. Coromandel Pest Control Services, 42-1-24 Rangya Naidu Street, Kakinada-533007 as an agency for the fumigation of (i) De-oiled Rice Bran and (ii) Crushed Bones, Horns and Hooves prior to their export at Kakinada subject to the condition that the said agency shall give adequate facilities to any officer nominated by the Export Inspection Council in this behalf to examine the method of fumigation followed by the said Agency in granting the certificate of fumigation under sub-rule (4) of rule 4 of the Export of De-oiled Rice Bran (Inspection) Rules, 1966 and rule 5 of the Export of Crushed Bones, Horns and Hooves (Inspection) Rules, 1977.

[File No. 5/13/88-El&EP]

आदेश

का. आ. 353 :—केन्द्रीय सरकार की निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह राय है कि भारत के निर्यात व्यापार के विकास के लिए भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना सं. का.आ. 1153 तारीख 9 अप्रैल, 1988 का निम्नलिखित विनिर्दिष्ट ढंग से और संशोधन करना आवश्यक और समीचीन है।

और केन्द्रीय सरकार ने उक्त प्रयोजन के लिए नीचे विनिर्दिष्ट प्रस्ताव बनाए हैं और उन्हें निर्यात (क्वालिटी नियंत्रण) और निरीक्षण) नियम, 1987 के नियम 11 के

उप नियम (2) की अपेक्षानुसार निर्यात निरीक्षण परिषद को भेज दिया है ;

अतः अब उक्त उप नियम के अनुसरण में केन्द्रीय सरकार उक्त प्रस्तावों को उन व्यक्तियों की जानकारी के लिए प्रकाशित करती है जिनके उनसे प्रभावित होने की संभावना है।

2. इसके द्वारा सूचना दी जाती है कि उक्त प्रस्तावों के बारे में कोई आक्षेप या सुझाव भेजने की वांछा रखने वाला कोई भी व्यक्ति उन्हें इस आदेश के राजपत्र में प्रकाशन की तारीख से पैंतालीस दिन के भीतर निर्यात निरीक्षण परिषद, 11वीं मंजिल, प्रगति टावर, 26, राजेन्द्र प्लेस नई दिल्ली-110008 को भेज सकता है।

प्रस्ताव

केन्द्रीय सरकार निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निर्यात निरीक्षण परिषद से परामर्श करने के पश्चात् भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना सं. का.आ. 1153 तारीख 9 अप्रैल, 1988 में निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में, खंड-2 के स्थान पर निम्नलिखित खंड रखा जाएगा; अर्थात् :—

2. इस आदेश की कोई भी बात भूमि समुद्र या वायु मार्ग द्वारा भावी क्रेताओं को मछली और मछली उत्पादों के ऐसे नमूनों के निर्यात को जिनके किसी भी प्रकार के नमूने का मूल्य 1000/- रु. में अधिक न हो और किसी भी मूल्य की मछली और मछली उत्पादों की जिन्हें ऐसी शर्तों के अधीन रहते हुए, जो भारत सरकार द्वारा समय-समय पर विनिर्दिष्ट की जाए पकड़ी जाती है और मछली पकड़ने वाले चार्टरित-विदेशी जलयानों में भण्डार किया जाता है, प्रति नमूने लागू नहीं होगी।

[फा.सं. 6 (12)/84-ई.आई.एण्ड.ई.पी.]

मूल अधिसूचना भारत के राजपत्र भाग 2, खंड उपखंड(ii) तारीख 9-4-88 का.आ. 1153 तारीख 9 अप्रैल, 1988 के अधीन पृष्ठ सं. 1550-1583 पर प्रकाशित हुई थी।

ORDER

S.O. 353.—Whereas the Central Government is of opinion that in exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), it is necessary and expedient to further amend the notification of the Government of India in the Ministry of

Commerce S.O. No. 1153 dated 9 April 1988, in the manner specified below, for the development of the export trade in India.

And whereas the Central Government has formulated the proposal specified below for the said purpose and has forwarded the same to the Export Inspection Council as required by sub-rule (2) of rule 11 of the Export (Quality Control and Inspection) Rules, 1987.

Now, therefore, in pursuance of the said sub-rule, the Central Government hereby publishes the said proposals for the information of the public likely to be affected thereby.

2. Notice is hereby given that any person desiring to forward any objection or suggestion with respect to the said proposal may forward the same within forty-five days of the date of the publication of this order in the Official Gazette to the Export Inspection Council, 11th Floor, Pragati Tower, 26, Rajendra Place, New Delhi-110008.

PROPOSALS

In exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government, after consulting the Export Inspection Council makes the following further amendment in the notification of the Government of India, in the Ministry of Commerce No. 1153 dated the 9 April 1988, namely:—

In the said notification, for clause 2, the following clause shall be substituted, namely:—

"2. Nothing in this Order shall apply to the export by land, sea or air of samples of fish and fishery products to prospective buyers, the value of which does not exceed Rs. 1,000 per sample of any type; and fish and fishery products of any value caught and stored in chartered foreign fishing vessels subject to such conditions as may be specified by the Government of India from time to time".

[F. No. 6(12)/84-EI&EP]

Foot Note :

The Principal Notification was published vide S.O. 1153 dated 9 April, 1988 in the Gazette of India, Part-II, Section 3, Sub-section (ii), pages 1550-1583 dated 8 April, 1988.

का.आ. 354 :—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स थेराप्यूटीक्स कैमिकल रिसर्च कॉर्पोरेशन, हमीर मैसन, 22 मोरे स्ट्रीट, मद्रास-600001 को यहाँ उसमें उपाबंध अनुसूची में विनिर्दिष्ट मैंगनीज तथा अयस्क ग्रुप-1 व ग्रुप-2 का निर्यात से पूर्व निरीक्षण करने के लिए 15 अक्टूबर, 1989 से एक वर्ष की अवधि के लिए इन शर्तों के अधीन अभिकरण के रूप में मान्यता देती है, कि संगठन मैंगनीज तथा अयस्क ग्रुप-2 के निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के उप नियम 4 के अन्तर्गत निर्यात निरीक्षण परिषद के किसी भी अधिकारी को निरीक्षण प्रमाण-पत्र जारी करने के लिए संगठन द्वारा अपनाई गई निरीक्षण प्रणाली की जांच करने के लिए पर्याप्त सुविधाएं देगा।

अनुसूची

खनिज तथा अयस्क (ग्रुप-1)

1. मैंगनीज अयस्क, मैंगनीज डायक्साइड सहित
2. आयरन अयस्क,
3. बाक्साइट, केलसिड बाक्साइट सहित,
4. फैरोमेगनीज, फैरोमेगनीज स्लेग सहित)

खनिज तथा अयस्क (ग्रुप-2)

1. मैंगनीज डायक्साइड,
2. क्रोम अयस्क, क्रोम चूर्ण सहित,
3. कायनाइट,
4. सिलिमैनाइट,
5. संकेन्द्रित जिंक सहित कच्चा जिंक,
6. परिष्कृत और निस्तप्त मेगनेसाइट सहित मेगनेसाइट,
7. बैराइटिस,
8. लाल बाक्साइट,
9. पीला गैरिक,
10. सेलखंडी,
11. स्पटीय (फैल्डस्पार)

[फाइल सं. 5/11/88-ई.आई.एण्ड ई.पी.]

S.O. 354.—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises for a period of one year with effect from 15th October, 1989, M/s. Therapeutics Chemical Research Corporation, Hamid Mansion, 27, Moore Street, Madras-600001 as an agency for inspection of the Minerals and Ores Group-I and Group-II specified in Schedule annexed hereto prior to export subject to the condition that the organisation shall give adequate facilities to any officer of the Export Inspection Council to examine the method of inspection followed by the organisation in granting the certificate of inspection under sub-rule (4) of rule 4 the Export of Minerals and Ores Group-I and Group-II (Inspection) Rules, 1965.

SCHEDULE

I. Minerals and Ores Group-I

1. Manganese Ore, excluding manganese dioxide
2. Iron Ore,
3. Ferromanganese including ferromanganese slag
4. Bauxite including calcined bauxite.

II. Minerals and Ores Group-II

1. Manganese Dioxide
2. Chrome Ore, including chrome concentrates
3. Kyanite
4. Sillimanite
5. Zinc Ores including zinc concentrates
6. Magnesite, including dead-burnt and calcined magnesite.
7. Barytes
8. Red Oxide
9. Yellow Ochre
10. Steatite
11. Feldspar

[File No. 5/11/88-EI&EP]

का.आ. 355:—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स जे.बी. बोडा, सर्वेयर्स प्रा. लि. विजाग, टिम्बर यार्ड प्राइमरी, हारवर एप्रोच रोड, विशाखा-पत्तनम-530035 को यहाँ इससे उपाबंध अनुसूची में विनिर्दिष्ट मैंगनीज तथा अयस्क ग्रुप-I व ग्रुप-II का विशाखा-पत्तनम में निर्यात से पूर्व निरीक्षण करने के लिए 10 दिसम्बर, 1989 से एक वर्ष की अवधि के लिए इस शर्त के अधीन अभिकरण के रूप में मान्यता देती है कि अभिकरण मैंगनीज तथा अयस्क ग्रुप-I व ग्रुप-II के निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के उपनियम (4) के अन्तर्गत इस संबंध में निर्यात निरीक्षण परिषद् के किसी भी अधिकारी को निरीक्षण प्रमाण-पत्र जारी करने के लिए उक्त अभिकरण द्वारा अपनाई गई निरीक्षण प्रणाली की जांच करने के लिए पर्याप्त सुविधाएं देगा।

अनुसूची

I. खनिज तथा अयस्क ग्रुप-I

1. मैंगनीज अयस्क, मैंगनीज डायक्साइड सहित,
2. आयरन अयस्क,
3. बाक्साइट, कैल्सिड बाक्साइट सहित,
4. फेरोमैंगनीज स्लेम सहित,

II. खनिज तथा अयस्क ग्रुप-II

1. मैंगनीज डायक्साइड,
2. क्रोम अयस्क, क्रोम चूर्ण सहित,
3. कायनाइट,
4. सिलिमनाइट,
5. संकेद्रित जिंक सहित कच्चा जिंक
6. परिदग्ध और निम्नतम मैंगनेसाइट सहित मैंगनेसाइट,
7. वैराइटिस,
8. लाल आक्साइड
9. पीला गैरिक,
10. सेलखंडी,
11. स्पनीय (फैल्डस्पार)।

[फाइल सं. 5/15/88-ई.आई.एण्ड ई.पी.]

followed by the said agency in granting the certificate of inspection under Sub-Rule (4) of Rule 4 of the Export of Minerals and Ores Group-I and Group-II (Inspection) Rules, 1965.

SCHEDULE

I. Minerals & Ores (Group-I)

1. Manganese Ore, excluding manganese dioxide.
2. Iron Ore.
3. Bauxite, including calcined bauxite.
4. Ferromanganese including ferromanganese slag.

II. Minerals & Ores (Group-II)

1. Manganese Dioxide.
2. Chrome Ore, including Chrome concentrates.
3. Kyanite.
4. Sillimanite.
5. Zinc Ores including zinc concentrates.
6. Magnesite, including dead-burnt and calcined magnesite.
7. Barytes.
8. Red Oxide.
9. Yellow Ochre.
10. Steatite.
11. Feldspar.

[File No. 5/15/88-EI&EP]

का.आ. 356:—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स जे.बी. बोडा, सर्वेयर्स प्रा. लि. विजाग टिम्बर यार्ड प्राइमरी, हारवर एप्रोच रोड, विशाखा-पत्तनम-530035 को भारत सरकार के वाणिज्य मंत्रालय की अधिसूचना सं. का.आ. 1270 तारीख 25 मार्च, 1966 के उपाबंध की अनुसूची में विनिर्दिष्ट अकार्बनिक रसायनों का विशाखापत्तनम में निर्यात से पूर्व निरीक्षण करने के लिए 10 दिसम्बर, 1989 से एक वर्ष के अवधि के लिए इस शर्त के अधीन अभिकरण के रूप में मान्यता देती है कि अभिकरण, अकार्बनिक रसायनों के निर्यात (निरीक्षण) नियम, 1966 के नियम 4 के उप नियम (4) के अन्तर्गत इस संबंध में निर्यात निरीक्षण परिषद् द्वारा नामित किसी भी अधिकारी को निरीक्षण प्रमाणपत्र जारी करने के लिए उक्त अभिकरण द्वारा अपनाई गई निरीक्षण प्रणाली की जांच करने के लिए पर्याप्त सुविधाएं देगा।

[फाइल सं. 5/15/88-ई.आई.एण्ड ई.पी.]

S.O. 355.—In exercise of the powers conferred by Sub-Section (i) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises for a period of one year with effect from 10th December, 1989 M/s. J. B. Boda Surveyors Pvt. Ltd., Vizag, Timber Yard Premises, Harbour Approach Road, Vishakhapatnam-530035 as an agency for the inspection of the Minerals & Ores Group-I and Group-II specified in the schedule annexed hereto prior to export at Vizag subject to the condition that the said agency shall give adequate facilities to any officer nominated by the Export Inspection Council in this behalf to examine the method of inspection

S.O. 356.—In exercise of the powers conferred by sub-section (i) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises for a period of one year with effect from 10th December, 1989 M/s. J. B. Boda Surveyors Pvt. Limited, Vizag Timber Yard Premises Harbour Approach Road, Vishakhapatnam-530035 as an agency for the inspection of the Inorganic Chemicals specified in schedule annexed to the notification of the Government of India, Ministry of Commerce

No. S.O. 1270 dated the 25th March, 1966 prior to export at Vizag subject to the condition that the said agency shall give adequate facilities to any officer nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by the said agency in granting the certificate of inspection under sub-rule (4) of rule 4 of the Export of Inorganic Chemicals (Inspection) Rules, 1966.

[File No. 5/15/88-EI&EP]

का.आ. 357:—केन्द्रीय सरकार, निर्यात (नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (i) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैंगनीज, बोडा, सर्वेयर्स प्रा. लिमिटेड रघु विल्डिंग (5वीं मंजिल) मैंगलोर-575006 को इसमें उपाबद्ध अनुसूची में विनिर्दिष्ट खनिज तथा अयस्क के निर्यात के पूर्व 21 नवम्बर, 1989 से एक वर्ष की अवधि के लिए इन शर्तों के अधीन मान्यता देती है कि उक्त अभिकरण खनिज तथा अयस्क के निर्यात (निरीक्षण) नियम, 1965 के नियम 4 के उपनियम (4) के अंतर्गत प्रमाण पत्र देने के लिए उक्त अभिकरण द्वारा अपनाई गई निरीक्षण पद्धति की जांच करने में निर्यात निरीक्षण परिषद द्वारा नामित किसी भी अधिकारी को पर्याप्त सुविधाएं देगा।

अनुसूची

1. मैंगनीज डायक्साइड सहित, कच्चा मैंगनीज
2. कच्चा लोहा।
3. क्रोम अयस्क, क्रोम पूर्ण सहित।

[फाइल सं. 5/15/88-ईआईएण्ड ईपी]

ए. के. चौधरी, निदेशक

(1) डा. एम. डी. गोडबोले
सचिव
पेट्रोलियम और रसायन मंत्रालय
(पेट्रोलियम और प्राकृतिक गैस विभाग)

(2) श्री एन. शिवानुराज्यय
वित्त सहायक,
पेट्रोलियम और रसायन मंत्रालय
(पेट्रोलियम और प्राकृतिक गैस विभाग)

S.O. 357—In exercise of the powers conferred by sub-section (1) of section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises for a period of one year with effect from 21st November, 1989 M/s. J. B. Boda Surveyors Pvt. Limited Raghu Building (1st floor), Mangalore-575006 as an agency for the inspection of the Minerals & Ores specified in schedule annexed hereto prior to export at Mangalore subject to the condition that the said agency shall give adequate facilities to any officers nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by the said agency in granting the certificate of inspection under Sub-rule (4) of rule 4 of the Export of Minerals and Ores (Inspection) Rules, 1965.

SCHEDULE

1. Manganese Ore excluding manganese dioxide.
2. Iron Ore.
3. Chrome Ore, including chrome concentrates.

[File No. 5/15/88-EI&EP]

A. K. CHAUDHURI, Director

पेट्रोलियम और रसायन मंत्रालय

(पेट्रोलियम और प्राकृतिक गैस विभाग)

नई दिल्ली, 17 जनवरी, 1990

का.आ. 358:—तेल उद्योग (विकास) अधिनियम, 1974 (1974 का 47) की धारा 3 की उपधारा (3) के खंड (क) और खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा तत्काल प्रभावी तारीख से अधिकतम दो वर्ष की अवधि के लिए तेल उद्योग विकास बोर्ड में निम्नलिखित नियुक्तियां करती है, अर्थात् :—

सदस्य (पेट्रोलियम और रसायनों से संबंधित मामलों के मंत्रालय का प्रतिनिधित्व करने के लिए नियुक्त)

सदस्य (वित्त मामलों से संबंधित मंत्रालय का प्रतिनिधित्व करने के लिए नियुक्त)

[संख्या सी-350/2/739-वित्त-II]

पी. एम. अहमद, संयुक्त निदेशक।

MINISTRY OF PETROLEUM & CHEMICALS)

(Department of Petroleum & Natural Gas)

New Delhi, the 17th January, 1990

S.O. 358:—In exercise of the powers conferred by clause (a) and clause (b) of sub-section (3) of section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby

makes the following appointments in the Oil Industry Development Board with immediate effect and for a period not exceeding two years :—

1. Dr. M. D. Godbole
Secretary,
Ministry of Petroleum & Chemicals
(Deptt. of Petroleum & Natural Gas)
2. Shri N. Sivasubramanian
Financial Adviser,
Ministry of Petroleum & Chemicals
(Deptt. of Petroleum & Natural Gas)

Member (appointed to represent the ministry.
dealing with petroleum and chemicals)

Member (appointed to represent the Ministry
dealing with finance).

[No. G-35012/7/89-Fin. II]
P.M. SAKSENA, Jt. Director

ऊर्जा मंत्रालय

(कोयला विभाग)

नई दिल्ली, 23 जनवरी, 1990

का. आ. 359.—केन्द्रीय सरकार के, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 (1957 का 20) की धारा 7 की उपधारा (1) के अधीन भारत के राजपत्र, भाग 2, खंड 3, उपखंड (II) तारीख 28 फरवरी, 1987 में प्रकाशित भारत सरकार के ऊर्जा मंत्रालय (कोयला विभाग) की अधिसूचना सं. का. आ. 542 तारीख 11 फरवरी, 1987 द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि के और अधिकारों का अर्जन करने के अपने आशय की सूचना दी थी :

और सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 8 के अनुसरण में केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है,

और केन्द्रीय सरकार का, पूर्वोक्त रिपोर्ट पर विचार करने के पश्चात् और महाराष्ट्र सरकार से परामर्श करने के पश्चात् यह समाधान हो गया है कि इससे संलग्न अनुसूची में वर्णित 441.33 हेक्टर (लगभग) या 1090.09 एकड़ (लगभग) माप वाली भूमि अर्जित की जानी चाहिए।

अतः केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 9 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि उक्त अनुसूची में वर्णित 41.33 हेक्टर (लगभग) या 1090.09 एकड़ (लगभग) माप वाली भूमि अर्जित की जाती है।

इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक सं. सी-1(ई)/II/जे.जे.आर/408.0588 तारीख 4-5-1988 का निरीक्षण कलक्टर, यवतमाल (महाराष्ट्र) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट कलकत्ता कार्यालय में, या वेस्टर्न कोलफील्ड्स लि. (राजम्व विभाग) कोल एस्टेट, मिथिल लाहन्स, नागपुर (महाराष्ट्र) के कार्यालय में किया सकता है।

अनुसूची

निलजई ब्लाक (भाग-2)

वणी क्षेत्र

जिला यवतमाल (महाराष्ट्र)

सक्ष. अधिकार

क्र. संख्यांक	ग्राम का नाम	पटवारी सर्किल सं.	ग्राम संख्यांक	तहसील	जिला क्षेत्र हेक्टरों में	टिप्पणियां
1.	गोबरी	31	92	वणी	यवतमाल	116.39 भाग
2.	आगासी	32	3	वाणी	यवतमाल	8.52 भाग
3.	पिपरी	32	217	वणी	यवतमाल	106.48 भाग
4.	कोलेरा	32	60	वणी	यवतमाल	95.16 भाग
5.	अहरी	32	12	वणी	यवतमाल	64.78 भाग

कुल योग : 441.33 हेक्टर (लगभग)

या

1090.09 एकड़ (लगभग)

गोवारी ग्राम में अर्जित किए गए प्लॉट संख्यांक :

भाग 6, भाग 7, भाग 8, भाग 9, भाग 10, भाग 15, भाग 16, भाग 17, भाग 18, 19 से 22, भाग 23, भाग 24, 25 से 27, भाग 28, 29 से 66, 68, 98, 99 भाग 100 भाग, 101 भाग, 145 भाग, 146 भाग 147, भाग 148, भाग 149, सड़क भाग, आबादी भाग।
अगासी ग्राम में अर्जित किए गए प्लॉट संख्यांक

भाग 7/1-7/1क-7/2-7/2ख-7/2ग-7/2घ-7/2ङ-7/3-7/3क-7/4 और नाले का भाग
पिपरी ग्राम में अर्जित किए गए प्लॉट संख्यांक

भाग 1, 2, 3, भाग 4, 5, 6 से 16, 17/1, 17/2, 18/1, 18/2, 19 से 30, 55 से 68, आबादी और सड़क का भाग।

कोलेरी ग्राम में अर्जित किए गए प्लॉट संख्यांक

11/1 11/2 12 से 14 15/1 15/2 15/3 16 से 23 198 से 217 और सड़क का भाग।

अहरी ग्राम में अर्जित किए जाने वाले प्लॉट संख्यांक

227 से 229, 238 से 244, 245 (भाग), 249 से 251, 261 से 276, 289 से 296, और सड़क का भाग

सीमा वर्णन :

क---ख रेखा बिन्दु "क" से आरंभ होती है और प्लॉट संख्यांक 101; 100, 99, 146, 145; 147, 148, 149, 6; 7, 8, में से होकर जाती है और बिन्दु "ख" पर मिलती है।

ख---ग रेखा ग्राम गोवारी में से होकर प्लॉट संख्यांक 8, 9, 10, 28, 24, 23, 15, 16, 17, 18 में से जाती है और फिर अगासी ग्राम में से होकर प्लॉट सं. 7/1, 7/1क, 7/2, 7/2क, 7/2ख, 7/2ग, 7/2घ, 7/2ङ, 7/3, 7/3क, 7/4 में जाती है और नाला पार करती है और फिर प्लॉट संख्यांक 5 और 3 में पिपरी ग्राम में से होकर और बिन्दु "ग" में वर्धा नदी के पश्चिमी तट पर मिलती है।

ग---घ रेखा वर्धा नदी के पश्चिमी तट के साथ-साथ ग्राम पिपरी में से होकर जाती है और बिन्दु "घ" पर मिलती है।

घ---ङ रेखा ग्राम पिपरी और अहरी की सम्मिलित सीमा के साथ-साथ जाती है और ग्राम अहरी में से होते हुए, प्लॉट संख्यांक 295, 296, 289, 269, 270, 272, 275, 276, 274, 239, 238, 242, 229, 228, 227, की बाहरी सीमा के साथ-साथ जाती है और बिन्दु "ङ" पर मिलती है।

ङ---च रेखा प्लॉट संख्यांक 227, 228 की बाहरी सीमा के साथ-साथ अहरी ग्राम में से होकर जाती है और फिर प्लॉट संख्यांक 245 से, प्लॉट संख्यांक 249, 251, 252, 254, 260 की बाहरी सीमा के साथ-साथ जाती है, और बिन्दु "च" पर मिलती है।

च---छ-ज-क रेखा, प्लॉट सं. 254, 261, 262, 263, 264 की बाहरी सीमा के साथ-साथ अहरी ग्राम से होकर जाती है तब आबादी प्लॉट सं. 57, 56, 55, 59, 62, 30, 29, 28, 27 की बाहरी सीमा के साथ-साथ आबादी प्लॉट संख्यांक 24 के साथ-साथ बढ़ती है फिर ग्राम कोलेरी में से होते हुए प्लॉट सं. 23, 22 सड़क 12, 11/1, 11/2, 2/2, बाहरी सीमा के साथ-साथ बढ़ती है, सड़क को पार करती है फिर प्लॉट संख्यांक 217, 216, 215, 198 की सीमा की ओर बढ़ती है फिर गोवारी ग्राम में होकर प्लॉट संख्यांक 55, 57, 68, 65, 66 की बाहरी सीमा के साथ-साथ ग्राम सड़क को प्लॉट सं. 98, 101 की बाहरी सीमा पार करती है और आरंभिक बिन्दु "क" पर मिलती है।

[सं. 43019/21/84-सीए/एल एम डब्ल्यू]

बी.बी.राय, अवर सचिव

MINISTRY OF ENERGY

(Department of Coal)

New Delhi, the 23rd January, 1990

S.O. 359. —Whereas by the notification of the Government of India in the Ministry of Energy Department of Coal No. S.O. 542, dated the 11th February, 1987 under sub-section (1) of section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) and published in the Gazette of India, Part-II, Section-3, Sub-section (ii), dated the 28th February, 1987, the Central Government

gave notice of its intention to acquire land and rights in the locality specified in the Schedule appended to that notification;

And whereas the competent authority in pursuance of section 8 of the said Act has made his report to the Central Government;

And whereas the Central Government after considering the report aforesaid and after consulting the Government of Maharashtra is satisfied that the lands measuring 441.33 hectares (approximately) or 1090.09 acres (approximately) described in the Schedule appended hereto should be acquired.

Now, therefore, in exercise of the powers conferred by Sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby declares that the lands measuring 441.33 hectares (approximately) or 1090.09 acres (approximately) described in the said Schedule are hereby acquired.

The Plan No. C-1(E)/III/JJR/408-0588 dated 4-5-1988 of the area covered by this notification may be inspected in the Office of the Collector, Yavatmal (Maharashtra) or in the Office of the Coal Controller, 1, Council House Street, Calcutta or in the Office of the Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines Nagpur (Maharashtra).

SCHEDULE
NILJAI BLOCK (PART-II)
WANI AREA
DISTRICT YAVATMAL (MAHARASHTRA)

ALL RIGHTS

Sl. No.	Name of Village	Patwari circle number	Village number	Tahsil	District	Area in hectares	Remarks
1.	Gowari	21	92	Wani	Yavatmal	166.39	Part
2.	Agasi	32	3	Wani	Yavatmal	8.52	Part
3.	Pimpri	32	217	Wani	Yavatmal	106.48	Part
4.	Kolera	32	60	Wani	Yavatmal	95.16	Part
5.	Aheri	32	12	Wani	Yavatmal	64.78	Part
Grand Total :						441.33	
						hectares	
						(approximately)	
						or	
						1090.09	
						acres	
						(approximately)	

Plot numbers acquired in village Gowari :

6 part, 7 part, 8 part, 9 part, 10 part, 15 part, 16 part, 17 part, 18 part, 19 to 22, 23 part, 24 part, 25 to 27, 28 part, 29 to 66, 68, 98, 99 part, 100 part, 101 part, 145 part, 146 part, 147 part, 148 part, 149 part, road part, abadi part.

Plot numbers acquired in village Agasi :

7/1-7/1A-7/2-7/2A-7/2B-7/2C-7/2D-7/2E-7/3-7/3A-7/4 part and nallah part.

Plot numbers acquired in village Pimpri :

1, 2, 3 part, 4, 5 part, 6 to 16, 17/1-17/2, 18/1-18/2, 19 to 30, 55 to 68, abadi, road part.

Plot numbers acquired in village Kolera :

11/1-11/2, 12 to 14, 15/1-15/2-15/3, 16 to 23, 198 to 217 and road part.

Plot numbers acquired in village Aheri :

227 to 229, 238 to 244, 245 (Part), 249 to 254, 261 to 276, 289 to 296, and road part.

Boundary description

- A—B** Line starts from point 'A' and passes through village Gowari in plot numbers 101, 100, 99, 146, 145, 147, 148, 149, 6, 7, 8 and meets at point 'B'.
- B—C** Line passes through village Gowari in plot numbers 8, 9, 10, 28, 24, 23, 15, 16, 17, 18, then proceeds through village Agasi in plot numbers 7/1-7/1A-7/2-7/2A-7/2B-7/2C-7/2D-7/2E-7/3-7/3A-7/4, crosses nallah, then passes through village Pimpri in plot numbers 5 and 3 and meets on the Western bank of Wardha River at point 'C'.
- C—D** Line passes through village Pimpri along the Western bank of Wardha River and meets at point 'D'.
- D—E** Line passes along the common boundary of villages Pimpri and Aheri, then proceed through village Aheri along the other boundary of plot numbers 295, 296, 289, 269, 270, 272, 275, 276, 274, 239, 238, 242, 229, 228, 227 and meets at point 'E'.
- E—F** Line passes through village Aheri along the outer boundary of plot numbers 227, 228 in plot number 245, then along the outer boundary of plot numbers 249, 251, 252, 254 and meets at point 'F'.
- F—G—H A** Line passes through village Aheri along the outer boundary of plot numbers 254, 261, 262, 263, 264, then proceeds through village Pimpri along the outer boundary of plot numbers 57, 56, 55, 59, 62, 30, 29, 28, 27, abadi, 24 proceeds through village Kolera along the outer boundary of plot numbers 23, 22, road, 12, 11/1-11/2, 212, crosses the road, then along the outer boundary of plot numbers 217, 216, 215, 198, then proceeds through village Gowari along the outer boundary of plot numbers 55, 57, 68, 65, 66, crosses road along the outer boundary of plot numbers 98, 101 and meets at starting point 'A'.

[No. 43019/21/84-CA/LSW]

B. B. RAO, Under Secy.

कृषि मंत्रालय

(कृषि और सहकारिता विभाग)

नई दिल्ली, 5 जनवरी, 1990

का. आ. 360.—पशुधन आयात अधिनियम, 1898 (1898 का 9) के खंड 2 की धारा (ख) और खंड 3 की उपधारा (1) में प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा गोजातीय पशुओं जिनमें, हिमत्तवीर्य और अणु शामिल हैं, के इस्त्राइन से भारत में आयात पर, यह देखते हुए कि उस देश में "लम्पी स्किन" रोग की घटनाएं हैं, इस अधिसूचना के जारी होने की तारीख से छ. महीने के लिए प्रतिबंध लगाती है।

[सं. 50-49/89-एल.डी.टी. (ए.क्यू.)]

MINISTRY OF AGRICULTURE

(Department of Agriculture & Cooperation)

New Delhi, the 5th January, 1990

S.O. 360.—In exercise of the powers conferred by Clause (b) of Section 2 and sub-section (1) of Section 3 of the Livestock Importation Act 1898 (9 of 1898), the Central Government hereby prohibits the import into India of bovine including frozen semen and embryos from Israel for a period of six months from the date of issue of this Notification in

view of the incidence of 'Lumpy Skin' disease in that country.

[No. 50-49/89-LDT(AQ)]

का. आ. 361.—पशुधन आयात अधिनियम, 1898 (1898 का 9) के खंड 2 की धारा ख तथा खंड 3 के उपखंड (1) तथा खंड 3 के उपखंड (1) में प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार आयरलैंड से भारत में शुद्ध वंशक्रम तथा ग्रान्ड परेन्ट स्टॉक और हैचिंग अंडों के आयात पर यह देखते हुए कि उस देश में अभी हाल ही में एवाइन इनफ्लूएंजा फैला है, इस अधिसूचना जारी होने के छ. महीने की अवधि तक प्रतिबंध लगानी है।

[सं. 50-4/84-एल.डी.टी.-ए.क्यू.)]

आर. कंडीर, अवसर सचिव

S.O. 361.—In exercise of powers conferred by Clause B of Section 2 and sub-section (1) of Section 3 and sub-section (1) of Section 3 of Livestock Importation Act 1898 (9 of 1898), the Central Government hereby prohibit for a period of six months from the date of issue of this Notification, the import into India of poultry including pureline and grand parent stock and hatching eggs from Ireland in view of the recent out-break of Avian Influenza in that country.

[No. 50-4/84-LDT(AQ)]

R. KANDIR, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

नई दिल्ली, 10 जनवरी, 1990

प्रयोग करते हुए केन्द्रीय होम्योपैथी परिषद से परामर्श के पश्चात् उक्त अधिनियम की दूसरी अनुसूची में निम्न-लिखित और संशोधन करती है, अर्थात् :—

क्र.आ. 362.—केन्द्रीय सरकार होम्योपैथी केन्द्रीय परिषद अधिनियम, 1973 (1973 का 59) की धारा 13 की उपधारा (2) द्वारा प्रदत्त शक्तियों का

दूसरी अनुसूची, "महाराष्ट्र" शीर्ष के नीचे क्रम सं. 11 ख और उसमें संबंधित प्रविष्टियों के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् :—

विश्वविद्यालय/बोर्ड या चिकित्सा संस्थान का नाम	मान्यताप्राप्त चिकित्सा अर्हता	रजिस्ट्रेशन के लिए संक्षेपाक्षर	टिप्पणी
1	2	3	4
"11 ख. होम्योपैथी और जैवरासायनिक चिकित्सा पद्धति का परीक्षक मंडल बम्बई"	होम्योपैथी चिकित्सा और अन्य चिकित्सा में डिप्लोमा	डी. एच. एम.एस.	1976 से आगे"

[सं. वी. 27021/1/87-होम्यो.]

एम. बी. गोयल, निदेशक

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 10th January, 1990

S.O. 362.—In exercise of the powers conferred by Sub-section (2) of section 13 of Homoeopathy Central Council Act, 1973 (59 of 1973), the Central Government, after consulting the Central Council of Homoeopathy, hereby makes the following further amendment in the Second Schedule to the said Act, namely :—

In the Second Schedule, under the head "Maharashtra" for serial number 11B and entries relating thereto, the following shall be substituted namely :—

Name of University/Board or Medical Institution	Recognised Medical qualification	Abbreviation for registration	Remarks
1	2	3	4
"11B. Court of Examiners of Homoeopathic and Biochemic System of Medicine, Bombay	Diploma in Homoeopathy Medicine and Surgery	D.H.M.S.	From 1976 onwards"

[No. V. 27021/1/87-Homeo]

S. B. Goel,
Director.

(स्वास्थ्य विभाग)

नई दिल्ली, 9 जनवरी 1990

क्र.आ. 363.—केन्द्रीय चिकित्सा अधिनियम, 1948 (1948 का 16) की धारा 3 के अनुसूचि में

केन्द्रीय सरकार कुछ सदस्यों भारतीय दन्त चिकित्सा परिषद में मनोनीत करती है।

उक्त अधिनियम की धारा 6 की उपधारा (1) के परन्तुक के साथ पठित धारा 3 के खण्ड

(न) के अनुसरण में केंद्रीय सरकार एतद्वारा भारत सरकार, स्वास्थ्य और परिवार कल्याण मंत्रालय (स्वास्थ्य विभाग) की दिनांक 24 जनवरी, 1984 की अधिसूचना का.आ. 430 में निम्नलिखित संशोधन करती है, अर्थात् :

उक्त अधिसूचना में शीर्ष 'भारत 3 के खंड (न) के अधीन मनोनीत' के अधीन क्रम संख्या 1, 3 और 4 तथा उसमें संबंधित प्रविष्टियां के स्थान पर निम्नलिखित क्रम संख्याएं और प्रविष्टियां रखी जाएंगी, अर्थात् :—

1	2	3	4	5
1. डा. एल. के. गांधी सी. 56, एन. डी. एस. ई. II नई दिल्ली-110059	मनोनीत	केंद्रीय सरकार		30-12-89
3. डा. श्रीकांत पुस्मी, (सेवा निवृत्ति दन्त चिकित्सा प्रोफेसर, एम. सी. वी. मेडिकल कालेज, कटक) कोनिका चौक, कटक, उड़ीसा	मनोनीत	केंद्रीय सरकार		30-12-89
4. डा. कमलाप्रसाद मिह, दरभंगा मेडिकल कालेज और अस्पताल, दरभंगा (बिहार)	मनोनीत	केंद्रीय सरकार		30-12-89

[मं. की. 12023/5/88-पी.एम.एम.]

टिप्पण : मुख्य अधिसूचना में बाद में निम्नलिखित के द्वारा संशोधन किया जाता है :

1. का.आ. संख्या 139, दिनांक 23 दिसम्बर, 1987
2. का.आ. संख्या 1910, दिनांक 13 मई, 1988
3. का.आ. संख्या 2091, दिनांक 6 जून, 1988
4. का.आ. संख्या 2023, दिनांक 13 जून, 1988

5. का.आ. संख्या 589, दिनांक 2 फरवरी, 1989
6. का.आ. संख्या 1128, दिनांक 17 अप्रैल, 1989
7. का.आ. संख्या 1430, दिनांक 26 मई, 1989
8. का.आ. संख्या 1865, दिनांक 22 जून, 1989
9. का.आ. संख्या 2362, दिनांक 21 अगस्त, 1989
10. का.आ. संख्या 2800, दिनांक 24 अक्टूबर, 1989

(Deptt. of Health)

New Delhi, the 9th January, 1990

S.O. 363.—Whereas in pursuance of section 3 of the Dentists Act, 1948 (16 of 1948), the Central Government is pleased to nominate certain members to the Dental Council of India ;

Now, therefore, in pursuance of clause (f) of section 3 read with proviso to sub-section (1) of section 6 of the said Act, the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Health and Family Welfare (Department of Health) No. S.O. 430, dated the 24th January, 1984 namely :-

In the said notification, under the heading "Nominated under clause (f) of section 3", for serial number, 1, 3 and 4 and the entries relating thereto, the following serial numbers and entries shall be substituted namely :—

1	2	3	4	5
1. Dr. L.K. Gandhi, C-56. NDSE II, New Delhi-110049	Nominated	Central Government		30-12-1989

3. Dr. Srikant Prusti, (Retired Professor of Denistry, S.C.B. Medical College, Cuttuck) Konika Chowk, Cuttuck, Orissa	Nominated	Central Government	30-12-1989
4. Dr. Kamala Prasad Singh, Darbanga Medical College and Hospital, Darbanga (Bihar).	Nominated	Central Government	30-12-1989."

[No. V. 12013/5/88-PMS]

Note : The main notification has been subsequently amended *vide* :

1. S.O. No. 139 dated the 23rd December, 1987. :
2. S.O. No. 1910 dated the 13th May, 1988.
3. S.O. No. 2091 dated the 6th June, 1988.
4. S.O. No. 2023 dated the 13th June, 1988.
5. S.O. No. 589 dated the 2nd February, 1989.
6. S.O. No. 1128 da ed the 17th April, 1989.
7. S.O. No. 1430 dated the 26th May, 1989.
8. S.O. No. 1865 dated the 22nd June, 1989.
9. S.O. No. 2362 dated the 21st August, 1989.
10. S.O. No. 2800 dated the 24 h October, 1989.

आदेश

नई दिल्ली, 11 जनवरी, 1990

का० आ० 364 —केन्द्रीय सरकार ने भारत सरकार के स्वास्थ्य और परिवार कल्याण मंत्रालय की अधिसूचना संख्या बी० 11016/7/83-एम. ई. (पी.), तारीख 9 जुलाई, 1984 द्वारा निदेश दिया है कि वेल्स विश्वविद्यालय (यूनाइटेड किंगडम) द्वारा प्रदत्त एम०बी०बी०सी०एच० आयुर्विज्ञान अर्हता, भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) के प्रयोजन के लिए मान्यताप्राप्त आयुर्विज्ञान अर्हता होगी।

और डा० कुमारी सिन्धिया रुथ बटलिन, जो उक्त अर्हता रखती है, तत्समय पूर्व कार्य के समय प्रयोजनार्थ रिचर्डसन कृष्ण अस्पताल, मिराज, महाराष्ट्र में सम्बद्ध हैं।

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 14 की उपधारा (1) के परन्तुक के खण्ड (ग) के अनुसरण में,—

- (1) 2 जून, 1991 तक की अवधि को, या
- (2) उस अवधि को जिसके दौरान डा० कुमारी सिन्धिया रुथ बटलिन उक्त रिचर्डसन कृष्ण अस्पताल, मिराज, महाराष्ट्र में सम्बद्ध रहती हैं, इनमें से जो भी लघुतर हो, उस अवधि के रूप में जिस तक पूर्वोक्त डाक्टर द्वारा चिकित्सा व्यवसाय समिति होगा, विनिर्दिष्ट करनी है।

[संख्या बी० 11016/9/89-एम. ई. (पी.)]

ORDER

New Delhi, the 11th January, 1990

S.O. 364.—Whereas by the notification of the Government of India in the Ministry of Health and Family Welfare No. V-11016/7/83-ME(P) dated the 9th July, 1984, the Central Government has directed that the medical qualification M.B.B.Ch. granted by the University of Wales (United Kingdom) shall be recognised medical qualification for the purposes of the Indian Medical Council Act, 1956 (102 of 1956):

And whereas Dr. Miss Cynthia Ruth Butlin who possesses the said qualifications is for the time being attached to the Richardson Leprosy Hospital, Miraj, Maharashtra for the purposes of Charitable work :—

Now, therefore, in pursuance of Clause (c) of the proviso to sub-section (1) of section 14 of the said Act, the Central Government hereby specifies :—

- (i) the period upto the 2nd June, 1991, or
- (ii) the period during which Dr. Miss Cynthia Ruth Butlin is attached to the said Richardson Leprosy Hospital, Miraj, Maharashtra.

Whichever is shorter as the period to which the medical practice by the aforesaid doctor shall be limited.

[No. V. 11016/9/89-ME(P)]

नई दिल्ली, 12 जनवरी 1990

का. आ. 365—भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 3 की उप धारा (1) के खण्ड (ख) के अनुसरण में, देवरी अहिर्न्या विश्वविद्यालय इन्दौर की सभा (कोर्ट) ने डा० बी० सी० छपरवाल को 5 मई, 1989 को भारतीय आयुर्विज्ञान परिषद का सदस्य 27 मार्च, 1991 तक की अवधि के लिए निर्वाचित किया है।

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 3 की उपधारा (i) के अनुसरण में भारत सरकार के भूतपूर्व स्वास्थ्य मंत्रालय की अधिसूचना संख्या का. आ. 138 (सं. 5-13/59-एम. आई.) तारीख 9 जनवरी, 1960 का निम्नलिखित और संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में, धारा 3 की उप धारा (i) के खण्ड (ख) के अधीन निर्वाचित शीर्ष के नीचे, क्रम संख्यांक-33 और उससे संबंधित प्रविष्टि के स्थान पर निम्नलिखित क्रम संख्यांक और प्रविष्टि रखी जाएगी, अर्थात् :—

“डा० बी० सी० छपरवाल,
आचार्य, बाल चिकित्सा विज्ञान, देवी अहिल्या विश्व-
एम.जी.एम. मेडिकल कालेज, विद्यालय
इन्दौर (मध्य प्रदेश)

[संख्या बी. 11013/21/86-एम.ई. (पी)]
भार० श्रीनिवासन, अव. सचिव

New Delhi, the 12th January, 1990

S.O. 365.—Whereas in pursuance of clause (b) of sub-section (1) of Section 3 of the Indian Medical Council Act, 1956 (102 of 1956) Dr. B. C. Chhaparwal has been elected by the Court of Devi Ahilya Vishwavidyalaya, Indore on the 5th May, 1989 to be a member of the Medical Council of India for a period upto the 27th March, 1991;

Now, therefore, in pursuance of sub-section (1) of section 3 of the said Act, the Central Government hereby makes the following further amendment in the notification of the Government of India in the late Ministry of Health, No. S.O. 138, (No. 5-13/59-M1), dated the 9th January, 1960, namely :—

In the said notification, under the heading “Elected under clause (b) of sub-section (1) of section 3” for serial number 33 and the entry relating thereto the following serial number and entry shall be substituted, namely :—

“33. Dr. B. C. Chhaparwal. Devi Ahila
Prof. of Paediatrics, Vishwavidyalaya.
M.G.M. Medical College,
Indore (M.P.).

[No. V. 11013/21/86-ME(P)]

R. SRINIVASAN, Under Secy.

कल्याण मंत्रालय

(वक्फ प्रभाग)

नई दिल्ली, 19 जनवरी, 1990

का० आ० 366 —केन्द्रीय सरकार, भारत सरकार के नत्कालीन विधि, न्याय और कम्पनी कार्य मंत्रालय, विधायी विभाग की भारत के राजपत्र, भाग 2, खंड 3, उप खंड (ii) तारीख 17 जनवरी, 1976 में प्रकाशित अधिसूचना संख्यांक का० आ० 247, तारीख 30 दिसम्बर, 1975 के साथ पठित वक्फ अधिनियम, 1954 (1954 का 29) की धारा 21 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री एम० एम 230 GI/90—5.

एच० सिद्दीकी को 11 दिसम्बर, 1989 से एक वर्ष की अवधि लिए पंजाब वक्फ बोर्ड का सचिव नियुक्त करती है।

[सं० 4/1/88 वक्फ]

भारत के राष्ट्रपति के आदेश

द्वारा और उनके नाम से

एम० टी० ग्रहमद, उप सचिव

MINISTRY OF WELFARE

(Wakf Division)

New Delhi, the 19th January, 1990

S.O. 366.—In exercise of the powers conferred by sub-section (1) of section 21 of the Wakf Act, 1954 (29 of 1954) read with the Notification of the Government of India in the erstwhile Ministry of Law, Justice and Company Affairs, Legislative Department, number S.O. 247 dated the 30th December, 1975, publishes in the Gazette of India, Part II, Section 3, sub-section (ii) dated the 17th January, 1976, the Central Government hereby appoints Shri M.M.H. Siddiqui, as Secretary of the Punjab Wakf Board for a period of one year on and from the 11th December, 1989.

[No. 4/1/88-Wakf]

By Order and in the name of the

President of India.

S. T. AHMAD, Dy. Secy.

शहरी विकास मंत्रालय

नई दिल्ली, 18 जनवरी, 1990

का० आ० 167 —यतः निम्नांकित क्षेत्रों के द्वारे में कुछ संशोधन, जिन्हें केन्द्रीय सरकार दिल्ली के लिए बृहत् योजना में प्रस्तावित करती है तथा जिसे दिल्ली विकास अधिनियम, 1957 (1957 का 61वां) की धारा 44 के प्रावधानों के अनुसार दिनांक 13 अगस्त, 1988 के नोटिस संख्या एफ-20(12)/87-एम. पी. द्वारा प्रकाशित किए गए थे, जिसमें उक्त अधिनियम की धारा 11-क की उप धारा (3) में अपेक्षित आपत्तियों/सुझाव उक्त नोटिस की तारीख से 30 दिन की अवधि में आमंत्रित किए गए थे।

और यतः उक्त संशोधनों के द्वारे में कोई आक्षेप और सुझाव प्राप्त नहीं हुए हैं, तो केन्द्रीय सरकार ने दिल्ली की बृहत् योजना/क्षेत्रीय विकास योजना में संशोधन करने का निर्णय किया है।

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 11-क की उप धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत के राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से दिल्ली की उक्त बृहत् योजना में एतद्वारा निम्नलिखित संशोधन करती है :—

संशोधन :—

“जोन एफ-4 (सफदरजंग क्षेत्र) में आने वाले, उत्तर में 64 मीटर चौड़े रिंग रोड से जुड़े हुए और ‘सरकारी उपयोग (कार्यालय) के लिए निर्दिष्ट क्षेत्र में से लगभग 1571 वर्ग मीटर क्षेत्र, जिस प्लॉट सं० 2 (पुराना प्लॉट संख्या 4 फैक्टरी रोड के रूप में जाना जाता है, का भूमि उपयोग ‘आवासीय उपयोग’ में बदला जाता है।”

[सं० के-13011/9/87-डी. जी. II-ए/वी/ए.]

MINISTRY OF URBAN DEVELOPMENT

New Delhi, the 18th January, 1990

S.O. 367.—Whereas certain modifications, which the Central Government proposes to make in the Master Plan for Delhi/Zonal Development Plan regarding the areas mentioned hereunder, were published with Notice No. F-20(12)/87-MP dated 13th August, 1988 in accordance with the provisions of Section 44 of the Delhi Development Act, 1957 (61 of 1957) inviting objections/suggestions, as required by sub-section (3) of Section 11-A of the said Act, within thirty days from the date of the said notice;

And whereas no objections and suggestions have been received with regard to the said modification, the Central Government have decided to modify the Master Plan for Delhi/Zonal Development Plan;

Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 11-A of the said Act, the Central Government hereby makes the following modification in the said Master Plan for Delhi with effect from the date of publication of this notification in the Gazette of India.

MODIFICATION

"The land use of an area measuring about 1571 sq. mts. known as plot No. 2 (old plant No. 4) Factory Road, falling in Zone F-4 (Safdarjung Area), abutting on 64 mt. wide Ring Road in the North and out of the area earmarked for 'Governmental use (office)', is changed to 'Residential use'.

[No. K-13011/9/87-DDIIA/VA]

का० प्रा० 368—यतः निम्नांकित क्षेत्रों के बारे में कुछ संशोधन, जिन्हें केन्द्रीय सरकार अद्योवर्णित क्षेत्रों के बारे में दिल्ली बृहत योजना/क्षेत्रीय विकास योजना में प्रस्तावित करती है, तथा जो दिल्ली विकास अधिनियम 1957 (1957 का 61) की धारा 44 के उपबन्धों के अनुसार दिनांक 22-2-88 के नोटिस सं० एफ-16(16)/87-एम. पी. द्वारा प्रकाशित किए गए थे, जिसमें उक्त अधिनियम की धारा 11-ए की उपधारा (3) में अपेक्षित आपत्तियाँ/सुझाव उक्त नोटिस की तारीख से 30 दिन की अवधि में आमंत्रित किए गए थे :

और यतः प्रस्तावित संशोधनों के संबंध में कुछ आपत्तियाँ और सुझाव प्राप्त हुए हैं और उन पर विचार किया गया है, और केन्द्रीय सरकार ने दिल्ली बृहत योजना/क्षेत्रीय विकास योजना का संशोधन करने का निर्णय किया है;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 11-ए की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत के राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से दिल्ली की बृहदयोजना में एतद्वारा निम्नलिखित संशोधन करती है :—

संशोधन :

"क्षेत्र डी-21 में पड़ने वाला 110/1200; (1.225 हेक्टे.) क्षेत्र, जो उत्तर में रेलवे लाइन तथा रेल संग्रहालय दक्षिण की तरफ मोती बाग (आवासीय, पूर्व में 45.72 मीटर मार्गाधिकार रोड शांतिपथ (पुल) से घिरा और पश्चिम में रेलवे परिचालन से घिरा है, का भूमि उपयोग

परिचालन (रेलवे परिचालन) से बदलकर "आवासीय उपयोग में किया जाता है।"

[सं. क्र. 13011/21/87-डी. डी. -II ए /वीए]

अर्जुन देव, अवर सचिव

S.O. 368.—Whereas certain modifications, which the Central Government proposes to make in the Master Plan for Delhi Zonal Development Plan regarding the areas mentioned hereunder, were published with Notice No. 16(16)/87-MP dt. 22nd February, 1988 in accordance with the provisions of Section 44 of the Delhi Development Act, 1957 (61 of 1957) inviting objections/suggestions, as required by sub-section (3) of Section 11-A of the said Act within thirty days from the date of the said notice;

And whereas some objections and suggestions have been received with regard to the said proposed modification and the same have been considered and the Central Government have decided to modify the Master Plan for Delhi/Zonal Development Plan;

Now, therefore, in exercise of the powers conferred by sub-section (2) of Section 11-A of the said Act, the Central Government hereby makes the following modifications in the said Master Plan for Delhi with effect from the date of publication of this Notification in the Gazette of India.

MODIFICATION

"The land use of an area measuring about 110'×1200' (1.225 ha.) falling in zone D-21 and bounded by railway line and railway museum in the North, Moti Bagh (residential) towards South, 45.72 mtrs., r/w road Shanti Path (bridge) in the East and bounded by Railway operational in the West, is changed from circulation (Railway operational) to "Residential use."

[No. K-13011/21/87-DDIIA/V.V]

ARJUN DEV, Under Secy.

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 11 जनवरी, 1990

का. प्रा. 369 —राजभाषा (संघ के शासकीय प्रयोजन के लिए प्रयोग) नियम 1976 के निबन्ध 10 के उपनियम (2) और (4) के अनुसरण में रेल मंत्रालय (रेलवे बोर्ड) भारतीय रेल वित्त निगम लिमिटेड को, जहाँ 80% से अधिक कर्मचारियों ने हिन्दी का कार्यान्वाहक ज्ञान प्राप्त कर लिया है, अधिमूर्चित करता है।

[सं. हिन्दी-89/ रा. भा. 1/12/2]

आनन्द नारायण शुक्ला, सचिव, रेलवे बोर्ड

और पदेन संयुक्त चिव

MINISTRY OF RAILWAYS
(Railway Board)

New Delhi, the 11th January, 1990

S.O. 369.—In pursuance of sub-rule (2) and (4) of Rule 10 of the Official Languages (Use for the official purposes of the Union) Rules, 1976, the Ministry of Railways (Railway Board) hereby notify the office of Indian Railway Finance Corporation Ltd., where more than 80 per cent of the staff have been acquired the working knowledge of Hindi.

[No. Hindi-89/OL-1/12/2]

A. N. SHUKLA, Secy Railway Board.

Ex. office Jt. Secy.

श्रम मंत्रालय

नई दिल्ली, 16 जनवरी, 1990

का.आ. 370—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईस्टर्न कोल फील्ड्स लिमि. की निचा कोलियरी के प्रबंधन से संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-1-90 को प्राप्त हुआ था।

MINISTRY OF LABOUR

New Delhi, the 16th January, 1990

S.O. 370.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Ningha Colliery of M/s. Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 11-1-90.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 37 of 1984

PARTIES :

Employers in relation to the management of Ningha Colliery of M/s. Eastern Coalfields Limited, P.O. Kalipahari Distt. Burdwan.

AND

Their Workmen.

PRESENT :

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES :

On behalf of employer : Mr. B. N. Lala, Advocate.

On behalf of workmen : None

STATE : West Bengal.

INDUSTRY : Coal.

AWARD

By Order No. L-19012(25)/81-D.IV(B), dated 10th August, 1984, the Government of India, Ministry of Labour and Rehabilitation (Department of Labour) referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Ningha Colliery of M/s. Eastern Coalfields Limited in not designating Shri Doman Mahato as supervisor is justified? If not to what relief is the workman concerned entitled?"

2. When the case is called out today, Mr. B. N. Lala, Advocate appears for the employer. Nobody appears for the workmen. A petition has however been received from the Union stating therein that the Union is not interested to proceed with the present reference and the Union has prayed for a "No Dispute Award". Mr. Lala appearing on behalf of the employer has no objection in this regard.

3. On due consideration of the petition of the Union, as well as the submission of Mr. Lala appearing on behalf of the employer, I find that this Tribunal has no other alterna-

five but to pass a "No Dispute Award" and accordingly a "No Dispute Award" is passed.

This is my Award.

Dated, Calcutta, The 3rd January, 1990.

SUKUMAR CHAKRAVARTY, Presiding Officer
[No. L-19012(25)/81-D.IV.B/IR(C-ID)]

का.आ. 371—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैसर्स ई. सी. लिम. की चायनाकुरी सं. 1 व 2 पिट्स कोलियरी के प्रबंधन से संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-1-90 को प्राप्त हुआ था।

S.O. 371.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Chinakuri Nos. 1 and 2 Pits Colliery of M/s. E.C. Ltd. and their workmen, which was received by the Central Government on 11-1-90.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 26 of 1988

PARTIES :

Employers in relation to the management of Chinakuri No. 1/2 Pit Colliery of M/s. Eastern Coalfields Limited.

AND

Their workmen.

PRESENT :

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES :

On behalf of employer : Mr. B. N. Lala, Advocate.

On behalf of workmen : None.

STATE : West Bengal.

INDUSTRY : Coal.

AWARD

By Order No. L-19012/91/86-D.IV(B), dated 23rd March, 1987, the Government of India, Ministry of Labour referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Management of Chinakuri Nos. 1 and 2 Pits Colliery of M/s. Eastern Coalfields Limited, P.O. Sunderchak, Distt. Burdwan in not communicating the findings of the Area Medical Board in respect of medical examination of Shri Matar Mahato, Mechanical Fitter held on 20-5-1985 and depriving him from the benefit of Clause 9.4.3 of NCWA-III is justified? If not, to what relief the workman concerned is entitled?"

2. When the case is called out today, Mr. B. N. Lala, Advocate appears for the employer. Nobody appears for the workmen. A petition has however been received from the Union stating therein that the Union is not interested to proceed with the present reference and the Union has prayed for a "No Dispute Award". Mr. Lala appearing on behalf of the employer has no objection in this regard.

3. On due consideration of the petition of the Union as well as the submission of Mr. Lala appearing on behalf of the employer, I find that this Tribunal has no other alternative but to pass a "No Dispute Award" and accordingly a "No Dispute Award" is passed.

This is my Award.

Dated, Calcutta,

The 3rd January, 1990.

SUKUMAR CHAKRAVARTY, Presiding Officer

[No. L-19012(91)/86-D.IV.B/IR (C-II)]

का.घा. 372.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व वेस्टर्न कोल फील्ड्स लिम. की कोरबा कोलियरी के प्रबंधन से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-1-90 को प्राप्त हुआ था।

S.O. 372.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Korba Colliery of M/s. Western Coalfields Ltd. and their workmen, which was received by the Central Government on 10-1-90.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(72) of 1980

PARTIES :

Employers in relation to the management of Korba Colliery of Messrs Western Coalfields Limited, Post Office Korba, District Bilaspur and their workmen S/Shri S. K. Chatterjee, A. K. Ghosh and Rajendra Prasad represented through the Samyukta Khadan Mazdoor Sangh (AITUC), Korba and Jajamar Colliery, P.O. Korba, District Bilaspur (M.P.).

APPEARANCES :

For Workmen : Shri Arvind Srivastava, Advocate.

For Management : Shri R. Menon, Advocate.

INDUSTRY : Coal Mining. DISTRICT : Bilaspur (M.P.).

AWARD

Dated, January 3rd, 1990

This is a reference made by the Central Government Ministry of Labour vide Notification No. L-22011(14)/79-D. IV(B) dated 12th/17th November, 1980, for adjudication of the following dispute :—

- Whether the demand of the workmen of the Korba Colliery of Messrs. Western Coalfields Limited, Post Office, Korba, Bilaspur, for upgradation and re-designation of Shri S. K. Chatterjee, Pay Clerk as Senior Cashier is justified keeping in view the nature of job being performed by him? If so, what should be the appropriate designation and grade of the workman and from what date?
- Keeping in view the nature of duties being performed by Shri A. K. Ghosh, Line Mistry in the Korba

Colliery of Messrs. Western Coalfields Limited, whether the demand of the workmen for designating him as APWI is justified? If so, to what relief is the said workman entitled?

- Keeping in view the nature of duties being performed by Shri Rajendra Prasad, Tub Repairing Mazdoor, Korba Colliery of Messrs. Western Coalfields Limited, whether the demand for designating the workman as Fitter is justified? If so, to what relief is the said workman entitled and from what date?
- Reference discloses that there were three separate references viz. in regard to Shri S. K. Chatterjee, Shri A. K. Ghosh and Shri Rajendra Prasad relating to different disputes between the parties.

3. My predecessor vide proceedings dated 30-12-1981 divided these three disputes of the same reference into three parts by bifurcating them. The reference of Shri A. K. Ghosh was registered as Case No. 72(B)/80, dispute regarding Shri Rajendra Prasad as Case No. 72/80 and regarding Shri S. K. Chatterjee was registered as Case No. 72(A)/80. The proceedings dated 3-8-1983 disclose that the case No. 72(A)/80 in respect of Shri S. K. Chatterjee came to an end because he was already promoted as per order dated 16th/17th July, 1980. Accordingly parties prayed that his dispute may be treated as closed. The Court accordingly closed his dispute with the observation that a formal award will be recorded. The other cases proceeded.

4. The case of the workman, Shri A. K. Ghosh [72(B)/80] is that he was appointed as a Line Mistry with the management and was working in the same capacity.

5. According to Shri Ghosh he was put in Cat. V but the job extracted from him was that of P.W.I. (Railways). But since there was no such designation in the recommendation of the Central Wage Board he was kept as Line Mistry at the time of National Coal Wage Board Agreement (II). In the Bipartite Committee of Coal Industries it was agreed that there is all the justification for such workman to be kept in the designation of P.W.I. It was, therefore, incumbent upon the employer to designate Shri A. K. Ghosh as P.W.I. in an appropriate scale of pay. He was called for interview for the post of P.W.I. but was not released for said purpose by the authorities at Korba. This denial affected his prospects adversely. In 1967 the N.C.D.C. Ltd. issued a white book which included the designation of A.P.W.I. and P.W.I. Shri Ghosh is entitled to the said post for he is working in the same capacity with effect from 20-3-1970, when he was refused permission to go to Sudandih for interview for the post of Permanent Way Inspector.

6. Management denied all the allegations made by the workman, Shri A. K. Ghosh. According to the management, Shri Ghosh is a Line Mistry and he is working in the said capacity. He is neither working as P.W.I. nor A.P.W.I. There is no post as such and no creation of such post was ever suggested. He was never denied any interview. He is not entitled to any relief as claimed.

7. So far as the case of Shri Rajendra Prasad is concerned it is not disputed that he was appointed as General Mazdoor and is working as Tub-Repairer Mazdoor.

8. According to Shri Rajendra Prasad after the death of Alijan, Tub-Fitter in the year 1972 or so he was working as Tub-Fitter. From 1-1-1977 to August 1978 he was paid acting allowance for doing the job of Tub-Fitter. At that time he was working Incline Nos. 3 and 4. He was working on the clear post. In October 1978 one Suleman was brought to Incline Nos. 3 and 4. Even when he was brought Shri Rajendra Prasad used to work as Tub-Repairer. Certified S.O. lays down that if a workman does work for six months on a post independently, he would be liable to be made permanent. In the instant case, Shri Rajendra Prasad has worked for more than six months and drawn wages as such. He is, therefore, entitled to be designated as Tub-Fitter/Tub-Repairer with effect from 1-11-1977 and he should be paid wages of the Tub-Fitter.

9. Management denied the case of Shri Rajendra Prasad as well. According to the management he never worked in the capacity of Tub-Repairer. Whenever he was asked to work on higher capacity he was paid difference of wages but he never worked in any clear post as alleged. There is no channel of promotion as claimed by Shri Rajendra Prasad. He never worked independently in any higher post. He can claim promotion in due course according to facts and circumstances and exigency of service only. His claim is, therefore, liable to be rejected.

10. I will first take up the case of Shri A. K. Ghosh which has been registered as Case No. 72(B)/80. Shri Ghosh has examined himself as W.W. 1 and N. K. Ghosh as W.W. 2 and has also proved documents Ext. W/1 to Ex. W/14. All these witnesses have categorically stated that Shri A. K. Ghosh has been working as A.P.W.I. W.W. 1 A. K. Ghosh says that he is working in the said capacity since 7-10-1963 though he was appointed as Line Mistry. These witnesses have, however, not able to point out whether there is any post of P.W.I. or A.P.W.I. with the management. Shri A. K. Ghosh has also admitted in his cross-examination that he has not been given any written order to act in the capacity of A.P.W.I. He admits that he is not aware of the qualifications required for the said post. He has not proved that he was called for interview for the post of P.W.I. or was not permitted to appear in the interview by the management.

11. W.W.1. Shri A. K. Ghosh, has however, stated in his cross examination that P.W.I. inspects the line and whatever faults noticed by him he gets them removed with the help of workers working under him. He further says that after faults are removed, he satisfies himself about the removal of the defects and it is only after a certificate is issued by him, movement is allowed on the line. Duties as such of A.P.W.I. have not been challenged.

12. Now let us examine as to what work this workman was carrying on in the employment of the management. Ex. W/1 is a most urgent letter dated 11-1-1971 addressed to Shri A. K. Ghosh by Manager, Korba Collieries asking him to remove the two numbers of Railway crossings from pilot quarry loading line and return the same to the Regional Stores, Korba at an early date under intimation to the Manager. Ex. W/2 is the copy of letter dated 29th January, 1970 made to the Deputy Supdt. of collieries, Korba/Manikpur by the workman to do justice to him and promote him to the post of A.P.W.I. or in the alternative be favoured with higher category.

13. Ex. W/3 is the letter dated 5-2-1975 written by the Manager, Korba Colliery to the workman to seek certain informations through P.W.I., S.E. Railway, Korba or any other personnel to enable them to give the make, model and name of the manufactures who manufacture relevant item or sketch thereof so that there will be no difficulty for the purchase department for taking procurement action as the indent will be lying unattended in the purchase section. Ex. W/4 is the copy of inspection note of siding No. 5. Ex. W/5 is a letter by the Deputy C.E. addressed to the workman asking him to immediately go to Railway Station, Korba and arrange to get the 2A Siding opened for movement of wagon from Level Crossing end and to treat it as most urgent. Ex. W/6 is the letter written by the workman to the Chief Controller, M.P.E.B. Railway Korba informing him that the material trolley will be working at Siding No. 5 from 7.30 a.m. to 2 p.m. for transporting the cinders which will be effected from 8-6-76 to 27-8-76. He therefore requested him to advice to all the loco-drivers to cautiously observe the danger signal and to stop if required. Copy of this letter was sent to A.S.M. Exchange Yard, S.E. Railway, for information. (This has been wrongly marked as Ex. W/5. It be corrected).

14. Ex. W/7 is the letter dated 11-8-76 addressed to the Station Master, S.E. Railway, Korba by the workman informing him that the Siding No. 5 will be suspended from 11 hours to 14 hours on 11-8-76 because cinders wagons will be unloaded between section. Copy of this information was sent to the Chief Controller, M.P.E.B. S.E. Railways by Shri A. K. Ghosh for information and necessary action.

15. Ex. W/8 is the letter dated 21-11-79 addressed by A. K. Ghosh to the Station Master, Korba S.E. Railway informing him that loading points and levelling the platforms of weigh-bridge of Siding No. 5 has been completed and the said portion is fit for movement of railway wagons. Ex. W/9 is another letter of the workman dated 15-10-78 addressed to S.M. Korba, S.E. Railway informing him that he had visited 2A Siding and examined D/S No. 3 where it was reported by his staff the derailment of wagon. According to him, he found that the trench and the D/S Point No. 3 was quite safe for movement. Ex. W/10 is another letter of workman dated 28/2, according to which the point of MKP Siding 2nd line is not working properly which should be attended immediately. Ex. W/11 is a letter of A. K. Ghosh addressed to the General Manager calling upon him to give more number of workers to maintain the railway line and siding properly, giving all the details. Ex. W/12 is the letter dated 4-12-1973 of the General Manager, Korba for taking suitable action in regard to attached letter. This letter is Ex. W/13 given by the workman to S.M. S.E. Railway, Korba, according to which movement of railway track in siding No. 2 of Champa and the point of Manikpur has been suspended by bolting and spiking and the drailing switch has been set for derailment by spiking permanently. He has called upon to make arrangement. Ex. W/14 is another enclosure.

16. No evidence has led on behalf of the management to deny or challenge this evidence led by the workman, A. K. Ghosh. The oral as well as documentary evidence clearly discloses that A. K. Ghosh was certainly not doing the job of a Line Mistry alone as alleged by the management. He was doing all the jobs of P.W.I. He was checking and examining railway tracks and points and doing all the works of inspecting and supervising work of the maintenance of railway road and the siding. This job cannot be done by a Mistry as alleged by the management. Whether there is a post of P.W.I. or A.P.W.I. or not, the fact remains that ever since the year 1963 (See W.W. 1 para 1) the workman was doing the job of A.P.W.I. which fact remain unchallenged. Whether there is such post or not he is entitled to the wages of A.P.W.I. from 24-3-1970 as claimed by him either posting him as A.P.W.I. or if there is no post as such in an equivalent post with full back wages and all consequential reliefs.

17. So far the case of Rajendra Prasad is concerned, it is undisputed that he was appointed as General Mazdoor on 7-2-1961 and was subsequently promoted to the post of Tub-Repairing Mazdoor Cat. II.

18. Now examining the case of Rajendra Prasad, he has examined himself as W.W. 1 and Raj Narain Singh as W.W. 2 to show that he is working in the underground as a Fitter as well as Fitter Helper. Rajendra Prasad says that when he works as Fitter the management pays him acting allowance of that job. He has further stated that since 1965 he is continuously working as Fitter and the management pays him acting allowance for about 4 to 6 months every year. In his cross-examination he says that he is working as a Fitter under the oral instructions either of the Manager or Foreman or Engineer. He admits that neither any written orders were issued nor did he demand a written order in this behalf.

19. W.W. 2, Raj Narain Singh, has also admitted that sometimes Rajendra Prasad works as Fitter and sometimes as Fitter Helper.

20. From the above evidence, it cannot be said that he is continuously working in the post of Tub-Fitter as alleged by him in his statement para 2. He states that since the death of Alijan in the year 1972 or so he is working as Tub-Fitter while in his oral evidence he states that he is working as Tub-Fitter since 1965. This is a material contradiction and for want of any documentary evidence as also from the evidence as has been adduced by Rajendra Prasad it cannot be held that he is working as Tub-Fitter since the year 1965 or 1977 (According to his prayer he has claimed to be designated as Tub-Fitter with effect from 1-11-1977). He is therefore, not entitled to be designated as a Fitter and consequently he is not entitled to any other relief.

21. I accordingly answer the reference as follows:—

- (1) The matter of Shri S. K. Chatterjee having been settled amicably and he having been promoted the reference does not call for any answer.
- (2) Keeping in view of the nature of duties being performed by Shri A. K. Ghosh, Line Mistry in the Korba Colliery of M/s. Western Coalfields Limited the demand of the workman for designating him as A.P.W.I. is justified. If there is no post of A.P.W.I. he is entitled to be put in the post of similar category and is entitled to wages according to this category. He is entitled to be put to this category from 20-3-1970 with full back wages and consequential benefits.
- (3) Keeping in view of the nature of duties being performed by Shri Rajendra Prasad, Tub-Repairing Mazdoor, Korba Colliery of Messrs Western Coalfields Ltd. demand for designating the workman as Fitter is not justified. He is not entitled to any relief.

Award be passed in terms of the answer with no order as to costs.

V. N. SHUKLA, Presiding Officer
[No. L-22011(14)/79-D.IV.B/IR(C-II)]

नई दिल्ली 17, जनवरी, 1990

का.प्र. 373—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैसर्स ईस्टर्न कोलफील्ड्स लिम. की पारसिया ओ.सी.पी. के प्रबंधन से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-1-90 को प्राप्त हुआ था।

New Delhi, the 17th January, 1990

S.O. 373.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Parasea OCP of M/s. Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 15-1-90.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 6 of 1985

PARTIES :

Employers in relation to the management of Parasea OCP of Messrs Eastern Coalfields Limited.

AND

Their workmen

PRESENT :

Mr. Justice Sukumar Chakravarty.—Presiding Officer.

APPEARANCES :

On behalf of employer.—Mr. R. S. Murthy, Advocate.

On behalf of workmen.—Mr. N. Ganguly, Advocate with Mr. C. S. Banerjee, General Secretary of the Union.

STATE : West Bengal.

INDUSTRY : Coal.

AWARD

By Order No. L-19012(40)/84-D.IV(B) dated 13th February, 1985, the Government of India, Ministry of Labour, referred the following dispute to this Tribunal for adjudication:—

“Whether the management of Parasea OCP of Eastern Coalfields Limited, P.O. Kajoragram, District Burdwan (WB) was justified in dismissing Shri Kapil Gope, their Security Guard w.e.f. 13-10-82? If not, to what relief the workman is entitled?”

2. The case as made out by the Union sponsoring the cause of the workman concerned Kapil Gope in the written statement is briefly as follows : Kapil Gope joined in the service of the employer Company in February, 1964 and since then he had to his credit a clean service record. In November, 1980 he was working as a Security Guard in the Company.

3. The Project Officer of the employer Company issued a charge-sheet dated 17-11-1980 against the concerned workman on some baseless allegations without any valid authority. It was alleged in the charge-sheet that on 14-11-1980 the concerned workman was in the first shift duty and that he left his place of duty without any permission and went to the Area Office at about 12.15 P.M. alongwith 20/25 persons led by Brij Bahadur Singh and assaulted D. P. Dutta, the Area Finance Manager. It was further alleged in the said charge-sheet that on his way back to Parasea Colliery the concerned workman also assaulted H. K. Dey, the Area Manager (Operation) and H. K. Ghatak, the Area Training Officer. The concerned workman was suspended from service pending the enquiry. The workman concerned submitted his reply to the charge on 22-11-1980 denying all the allegations. The workman mentioned in the said reply that he was not on duty in the first shift at all. The concerned workman during the domestic enquiry submitted a letter dated 6-1-1982 to the Enquiry Officer alongwith a copy of the order from the Asansol Court and it was clearly stated in the said letter that the concerned workman was present at the area office on 14-11-1980 only upto 9.30 A.M. and that thereafter he left for Asansol Court in connection with a case and that the Court's order would support the same. The distance between the area office of the Company and the Asansol Court was more than 30 Kms. The concerned workman was present at the Asansol Court in between 11.30 A.M. and 4.30 P.M. on 14-11-1980. The concerned workman was not present in the area office at the time of the alleged occurrence.

4. The Enquiry Officer however held the domestic enquiry against the concerned workman on the aforesaid charges without following the principle of natural justice and without giving the delinquent workman reasonable opportunity of defending himself in the domestic enquiry. The Enquiry Officer who was all along biased against the concerned workman found the concerned workman guilty of the charges of abuse and assault and accordingly submitted his report. The disciplinary authority of the employer Company accepted the report of the Enquiry Officer and dismissed the concerned workman from service with effect from 15th October, 1982 by their letter dated 13/15th October, 1982.

5. The cause of the concerned workman was taken up by the Union and the failure report in the conciliation attempt resulted in the present reference.

6. The case as made out by the employer Company in the written statement is briefly as follows : The Eastern Coalfields Ltd. has grouped contiguous collieries with its head office at Sanctoria in the district of Burdwan. There are large number of areas and each area is headed by a General Manager who is also the Chief Mining Engineer of the area concerned. Parasea OCP falls within the Kunustoria Area of Eastern Coalfields Limited.

7. Brij Bahadur Singh, Munshi Incharge of Parasea Colliery of Kunustoria Area alongwith 20 to 25 other workmen went to Kunustoria Area General Manager's office at about 12.15 P.M. on 14-11-1980 and shouted in abusive language and behaved in a disorderly and riotous manner. All of them entered into the Kunustoria Area office building in a violent mood and caught hold of Mr. D.P. Dutta, Area Finance Manager, Kunustoria Area and physically assaulted him.

8. On their way back from Kunustoria Area Office the aforesaid mob caught hold of Mr. H. K. Dey, Area

Manager (Operation) and Mr. H. K. Ghatak, Area Training Officer who were coming in a jeep and assaulted them physically, while the said officers were returning to Area Office from Parasea OCP. The concerned workman Kapil Gope, the Security Guard of Parasea OCP was one of the assailants of Mr. Dutta in the Kunustoria Area Office and of Mr. H. K. Dey and Mr. H. K. Ghatak on the road near Topsi railway crossing.

9. The concerned workman alongwith two others of the said mob also left their duties and place of work without permission of the competent authority and went to the Area Office of the Kunustoria Area.

10. The employer Company accordingly issued the charge-sheets against five workmen including the concerned Kapil Gope and a domestic enquiry was held. The Enquiry Officer followed the principle of natural justice while holding the domestic enquiry and gave all reasonable opportunity to the charge-sheeted workmen including the concerned workman to defend themselves. All the aforesaid five chargesheeted workmen including the concerned workman Kapil Gope were found guilty of the charges of abuse and assault levelled against them by the Enquiry Officer. But the charge of leaving the work without permission against the concerned workman including Kapil Gope could not be established. The appropriate authority of the employer Company accepted the report of the Enquiry Officer and dismissed the concerned workman Kapil Gope from service with effect from 15-10-1982 as per their letter dated 13/15-10-1982.

11. The employer Company denied all other allegations of the concerned workman and specially his allegation of alibi to the effect that he was not present at the alleged time and place of incidents. According to the employer Company, the domestic enquiry was held in accordance with the Model Standing Orders and the punishment of dismissal was imposed upon the concerned workman, regard being had to the gravity of the charges. The concerned workman accordingly is not entitled to any relief under the reference.

12. In a reference of this nature arising out of the dismissal of the concerned workman on the basis of the domestic enquiry, the preliminary issue with regard to the validity or otherwise of the domestic enquiry was heard first. This Tribunal by its order dated 17-1-1989 found that the domestic enquiry held against the concerned workman was valid and accordingly gave a direction for hearing the reference on merit.

13. Both parties have made their respective submission on the basis of the materials in the record. Section 11A of the Industrial Disputes Act, 1947 has empowered the Tribunal to come to a independent decision both with regard to the establishment of the charges levelled against the concerned workman and with regard to the punishment imposed upon him, on reappraisal of the materials in the record.

14. I have given due consideration to all the materials in the proceedings of the domestic enquiry including the report of the Enquiry Officer. The Enquiry Officer rightly arrived at the finding on the basis of the materials in the record that the employer Company could not establish the charge of leaving the work without permission against the concerned workman. The other charge of abuse and assault by the concerned workman Kapil Gope upon the concerned Officers of the Company is based on two different incidents at two different places. The first alleged incident of abuse and assault upon Mr. D. P. Dutta, the Area Finance Manager by the concerned workman, took place, according to the employer, in the Kunustoria Area Office at about 12.15 P.M. on 14-11-1980. The second alleged incident of abuse and assault upon Mr. H. K. Dey, Operation Manager and Mr. H. K. Ghatak, the Area Training Officer, by the concerned workman, according to the employer, took place near the Topsi railway crossing within the area of the company itself. I shall discuss the aforesaid two alleged incidents one after another on the basis of the materials in the record.

15. There is no dispute to the fact that on 14-11-1980 two incidents took place, one in the area office at about 12.15 P.M. and another near the Topsi railway crossing at about 1 P.M. The evidence of witnesses, namely, Mr. D. P. Dutta, Area Finance Manager, Habilder N. K. Chowbey and the other officials like Tapan Sarkar, Seo Prasad Dutta and B. K. Bhattacharjee proves that a mob of about 20 or 25 persons went to the first floor of the area office and that some of them abused and assaulted Mr. D. P. Dutta, the Area Finance Manager at about 12.15 P.M. on 14-11-1980. The question is whether the concerned workman Kapil Gope was in the said mob and whether he filthily abused and assaulted Mr. Dutta.

16. The concerned workman in his reply dated 22-11-1980 to the charge-sheet given to him has stated that he was not on duty in the first shift of 14-11-1980 and that he came to the area office for getting clarification on some problem relating to the guard of Parasea OCR. In the said reply he has denied the charge of abuse and assault upon anybody either at the area office or on the road. The delinquent workman for the reasons best known to him, did not mention in the said reply as to the approximate time when he came to the area office on 14-11-1980. Be that as it may, the delinquent's reply to the charge clearly establishes that the delinquent concerned workman came to the area office on 14-11-1980.

17. In the course of the domestic enquiry the delinquent concerned workman produced one letter dated 6-1-1982 addressed to the Enquiry Officer himself alongwith a typed copy of the order dated 14-11-1980 of the Judicial Magistrate of the Second Court at Asansol. The aforesaid letter dated 6-1-1982 of the concerned workman shows that this letter is in clarification to the delinquent's reply dated 22-11-1980 to the charge. It has been mentioned in the aforesaid letter that he was present at the area office upto 9.30 A.M. on 14-11-1980 and that he left for Asansol Court in connection with a court case. In the aforesaid letter it has not however been mentioned from what time to what time the delinquent workman was in the Asansol Court. The Union however in their written statement in the present reference has stated that the delinquent workman was in the Asansol Court from 11.30 A.M. to 4.30 P.M. On perusal of the aforesaid documents beginning from the delinquent's reply dated 22-11-1980 to the charges, I find that the delinquent workman has made gradual embellishment to his statements one after another. The question arises as to why the delinquent concerned workman in his first opportunity while giving reply to the charges on 22-11-1980 did not mention in the said reply that he was in Kunustoria Area Office on 14-11-1980 upto 9.30 A.M. and that thereafter he left for Asansol Court and remained there from 11.30 A.M. to 4.30 P.M.

18. It is true that the delinquent workman enclosed a typed copy of the Asansol Court's order dated 14-11-1980 with his letter dated 6-1-1982 to the Enquiry Officer. The said typed copy bears one handwritten endorsement to the following effect "verified from the certified original copy of the Court and found correct", with the signature of P. Jha and date 6-1-1982. P. Jha is admittedly the Enquiry Officer. So it appears that Mr. P. Jha as Enquiry Officer got the aforesaid typed copy of the order verified from the certified original copy of the Court order. So the aforesaid Court's order proves that one Kapil Gope and some others attended the Second Court of the Judicial Magistrate at Asansol on 14-11-1980. The evidence in the record has shown that Asansol is about 30 to 40 Kms. away from the Kunustoria Area Office. The materials in the record have also established that the mob came by one jeep and two other cars and left the area office after the incident by the said vehicles. According to the evidence as given by the witnesses on the side of the employer Company, the incident in Kunustoria area office took place at about 12.15 P.M. A motor vehicle may take less than an hour to cover the aforesaid distance. Such being the position, it may that the delinquent workman concerned came to area office at about 12.15 PM after attending the Criminal Court at Asansol or he went to the Criminal Court at Asansol after 12.15 P.M. The Court's order dated 14-11-1980 does not indicate from what time to what time the concerned

workman Kapil Gope was present in the Criminal Court. There would have been no difficulty in accepting the version of the delinquent concerned workman to the effect that he was in the Criminal Court at Asansol from 11.30 A.M. to 4.30 P.M. on 14-11-1980 provided there would have been no evidence on the side of the employer Company to show the presence of Kapil Gope at the places of incidents on 14-11-1980.

19. The victim of the first incident at the Area Office is Mr. D. P. Dutta, the Area Finance Manager. He has stated in his evidence that a mob of 20 to 25 persons surrounded him on the first floor when he came out of his chamber after hearing the goalmal and that they threatened him with assault. His evidence further shows that some of the mob were pulling him by his shoulder and hand and were hurling abuses upon him. His evidence further shows that Habilder Chowbey and some other Security Guards came to the spot by that time and escorted him to the inside of the chamber and that Mr. Dutta himself bolted his chamber from inside. Mr. Dutta who was the victim of abuse and assault in the form of pulling by shoulder and hand, has not named the delinquent workman Kapil Gope as one of the abusers and assailants. Mr. Dutta was not cross-examined by the delinquent workman to give any suggestion even that Mr. Dutta was not abused and was not manhandled in the manner as deposed by him.

20. Next comes the evidence of Habilder N. K. Chowbey. His evidence shows that after hearing the noise he came out of his room in the ground floor of the office and saw that many people were going up-stairs. On his arrival at the first floor he found Mr. Dutta surrounded by the mob who were hurling abuses upon him. His evidence further shows that the fists were being exchanged and that one Biswanath Gope of the mob had caught hold of the hand of Mr. Dutta and was trying to drag him down. His evidence further shows that he separated them and escorted Mr. Dutta and that he and other Security Guards who came in the mean time dispersed the mob and sent them down. This Habilder in his evidence has stated before the Enquiry Officer that he recognised the delinquent workman Kapil Gope as one of the members of the said mob. This Habilder has no doubt admitted in his evidence that he did not hear any abuse and see any assault upon Mr. Dutta after he came to the place of occurrence in the up-stairs. So the evidence of Habilder establishes the incident at the time and place and establishes also that the delinquent workman Kapil Gope was one of the members of the mob who surrounded Mr. Dutta in the upstairs of the office. It could not be shown by giving any suggestion even why this Habilder N. K. Chowbey would falsely implicate the delinquent workman who was also a Security Guard, at least about his presence in the mob at the time and place of occurrence in the area office.

21. Tapan Sarkar is another witness on the side of the employer Company. His evidence shows that on the date of occurrence he was working in the room No. 41 in the first floor of the area office and that he came out after hearing the noise coming from the ground floor. His evidence further shows that he saw a mob coming to the first floor through the staircase and that Mr. Dutta also came out of his chamber in the first floor. This witness Mr. Sarkar has further stated in his evidence that Mr. Dutta was surrounded by the mob near the stairs and was manhandled by some members of the mob and that the delinquent workman Kapil Gope was one of the persons who manhandled Mr. Dutta. This witness has admitted in his evidence that he knew the workman by face from before and that he did not know his name. But in his evidence he has stated that he was sure that this delinquent workman was in front of the mob and that he also manhandled Mr. Dutta. So the evidence of Tapan Sarkar establishes the presence of the delinquent workman in the mob at the alleged time and place of the occurrence in the area office and establishes also that the said delinquent workman manhandled Mr. Dutta. It is true that Tapan Sarkar has not described the nature of manhandling in his evidence.

22. Another witness Seo Prasad Dutta on the side of the employer Company, who was also working in the first floor of the area office has proved the assault in the form of pulling Mr. Dutta by hand by some persons of the mob at the place

of occurrence. This witness has however not named the concerned workman as one of the assailants. This witness has stated in his evidence that when he came out after hearing the noise he saw some people pulling Mr. Dutta by hand and that some people were trying to rescue him and taking him to his office. So the evidence of Seo Prasad Dutta also establishes the occurrence of the incident at the alleged time and place in the area office.

23. Next witness B.K. Bhattacharyya on the side of the employer Company has also proved the incident in the office at the alleged time and place and he has further stated in his evidence that the delinquent workman gave also a blow to Mr. Dutta when Mr. Dutta was attacked by the mob and was being abused. This witness has admitted in his evidence that he recognised the concerned workman Kapil Gope by face and that he did not see him before the incident. M. C. S. Banerjee appearing for the Union has submitted that the evidence of B. K. Bhattacharyya cannot be relied on as he has stated in his evidence that Mr. Dutta was hit by blow given by the concerned workman and other members of the mob when Mr. Dutta in his evidence has merely stated that he was pulled by his shoulder and hand. It may be that out of over-exuberance B. K. Bhattacharyya in his evidence has gone to the extent of saying that Mr. Dutta was hit by blows from the members of the mob including the delinquent workman. The fact however remains, as revealed from his evidence that the delinquent workman Kapil Gope was in the mob, and that some members of the mob laid their hands on the person of Mr. Dutta while abusing him.

24. Mr. Banerjee appearing for the Union has also submitted that the evidence of Habilder N. K. Chowbey should not be relied on as he has stated in his evidence that he noticed that the fists were being exchanged when he found that Mr. Dutta had already been surrounded by the mob hurling abuses upon him, in the face of his further evidence to the effect that he did not hear any abuse and see any assault upon Mr. Dutta when he came to the place of occurrence in the up-stairs. It may be that Habilder Chowbey did not hear the abuse and see any assault upon Mr. Dutta after he came to the up-stairs at the place of occurrence. But this does not remove his evidence as impossible when he says that when he came out from his room after hearing the noise, he found that many people were going up-stairs and found also that Mr. Dutta was being surrounded by the mob hurling abuses upon him and that fists were being exchanged when it has been stated by the other witnesses like Seo Prasad Dutta that some people were pulling Mr. Dutta by hand and some people were trying to rescue him, thereby indicating that there was a melee at the place of occurrence and some sort of scuffle between the persons who were trying to pull down Mr. Dutta by hand and who were trying to rescue Mr. Dutta. Habilder Chowbey has not stated in his evidence that the fists were being exchanged between Mr. Dutta and some of his assailants who were trying to pull him by catching hold of his shoulder and hand.

25. On a careful consideration of the evidence of the witnesses on the side of the employer Company and all other materials in the record, I find that the delinquent workman Kapil Gope was present in the mob and was in front of the said mob at the time of occurrence and that he also laid his hand upon the persons of Mr. Dutta, which may be in the form of pulling Mr. Dutta either by shoulder or by hand. The evidence has already established that some members of the mob were hurling abuses upon Mr. Dutta. Mr. Dutta, in his evidence has stated that Brij Behari Singh who led the mob which surrounded Mr. Dutta first asked him as to why some bills are still remaining outstanding and gave him the threat of assault. So it appears that the mob consisting of 20 to 25 persons including the delinquent workman Kapil Gope had their common object of assaulting and abusing Mr. Dutta and that Kapil Gope as a member of that mob not only shared the said common object but in prosecution of the same actively participated in their attempt to execute the said common object. The evidence has disclosed that because of the timely presence of Habilder and some other Security Guards, the situation did not take a turn for the worse and that Mr. Dutta could be escorted to his office room from the clutches of the mob.

26. Next comes the alleged immediate second incident near the Topsis railway crossing. As regards the second incident the employer Company examined only two witnesses namely H. K. Dey and H. K. Ghatak who were the victims of the said incident. H. K. Dey in his evidence has stated that about 1 P.M. on 14-11-1980 their jeep stopped near the Topsis railway crossing which was just opening and that in the said jeep besides himself and his driver, H. K. Ghatak was also there. It may be mentioned here that H. K. Dey was the Area Manager (Operation) and H. K. Ghatak was the Area Training Officer. The evidence of H. K. Dey further shows that when they stopped near the said crossing, two cars and one jeep were coming from opposite side with their occupants and that five or six persons of the occupants of the aforesaid two cars and jeep came out and started assaulting H. K. Dey and H. K. Ghatak with fists and blows and that one of the assailants took away the wrist watch of H. K. Dey. The assailants and H. K. Ghatak got down from the jeep occupied by H. K. Dey and H. K. Dey instructed his driver to hurriedly drive away the jeep from the place of the incident. The evidence of H. K. Dey further shows that under the direction of H. K. Dey, driver stopped the jeep after going at a distance of about 60 to 70 feet from the place of occurrence so that H. K. Dey could recognise his assailants. H. K. Dey has further stated in his evidence that he recognised the delinquent workman Kapil Gope and two others who assaulted H. K. Dey and Mr. Ghatak.

27. H. K. Ghatak in his deposition has corroborated the evidence of H. K. Dey about the assault upon H. K. Dey. H. K. Ghatak has further stated in his evidence that the assailants caught hold of his left hand and twisted it and that out of pain and agony he got down from the jeep. His evidence further shows that he was also hit by fists and blows. This witness H. K. Ghatak however did not tell the name of his assailants.

28. From the evidence of the aforesaid two witnesses it is found that the other incident of assault upon H. K. Dey and H. K. Ghatak took place about 1 P.M. on 14-11-1980 near the Topsis railway crossing immediately after the first incident in the area office. The evidence already disclosed that 20 to 25 persons came to the area office at the time of occurrence by two cars and a jeep. The evidence of H. K. Ghatak has further stated in his evidence that the assailants and their associates numbering about 20 to 25 persons came in front of jeep of H. K. Dey and H. K. Ghatak by two cars and a jeep near the Topsis railway crossing. H. K. Ghatak could recognise Kapil Gope amongst the persons who came to the place of second incident near Topsis railway crossing from a distance of about 60 to 70 feet when H. K. Dey's jeep stopped there under the direction of H. K. Dey to enable him to recognise his assailants. The evidence of H. K. Dey shows that H. K. Dey did not try to recognise his assailants at the place of occurrence when he was being assaulted. But his evidence shows that he directed the driver to take away the jeep from the place of occurrence immediately and to stop it at a distance of about 60 to 70 feet so that he could recognise his assailants. It appears from his evidence that he could recognise Kapil Gope as one of the assailants. The evidence of H. K. Dey as regards his recognition of Kapil Gope as a person of the mob which came at the place of the second incident can be accepted without any iota of doubt but his evidence that he recognised him as one of the assailants subsequently from a distance of about 60 to 70 feet when he was not being assaulted at that time, cannot be accepted as true when there lies the possibility of doubt. The benefit of doubt should always go to the person charge-sheeted. So the evidence of H. K. Dey and H. K. Ghatak and the other materials in the record only establish the presence of the delinquent workman Kapil Gope even at the place of the second incident at about 1 P.M. on 14-11-1980 and establishes also the assault upon H. K. Dey and H. K. Ghatak by some members of the mob who came there by two cars and a jeep.

29. In view of what has been discussed above with regard to the two incidents on the date of occurrence, I find that the materials in the record have clearly established the presence of the delinquent workman Kapil Gope at the places of both the incidents and have also established that Kapil Gope shared the mob's common object of abusing and assaulting Mr. Dutta by his overt act in the area office in respect of the first incident in the area office. The above established

facts give a go by to the story of alibi as taken by the concerned workman by saying that he was in the Assansol Court at the time of the incidents on 14-11-1980. It has already been shown that the concerned workman being in a motor vehicle could have easily attended the Court before the incidents in question or after the incidents in question. The delinquent workman has not given evidence on oath before the Enquiry Officer to say that he was in the Assansol Court from 11.30 A.M. to 4.30 P.M. Rather his reply dated 22-11-1980 to the charge in the earliest opportunity shows that he was present in the area office on 14-11-1980. It has already been shown that the said reply did not mention that he was in the area office on that date upto 9.30 A.M. as subsequently stated in his letter dated 6-1-1982 to the Enquiry Officer.

30. Having considered all the facts and circumstances and the materials in the record, I find that the delinquent workman Kapil Gope took part in the incidents in question while actively participating in the first incident in the area office and by his presence while sharing the common object of the second incident.

31. The Enquiry Officer's finding in his report as to the establishment of the charge of abuse and assault upon Mr. Dutta by the concerned workman has been found to be based on materials in the record.

32. The disciplinary authority accepted the findings of the Enquiry Officer in this respect on consideration of the materials in the record and imposed the punishment of dismissal upon the concerned workman according to the Model Standing Orders, regard being had to the gravity of the charge, under the letter dated 13th/15th October, 1982. On due consideration of the facts and circumstances and the materials in the record, I do not find that the said punishment of dismissal in a case of this nature is mala fide and an act of victimisation. The maintenance of discipline is essential in an industrial concern and no leniency can be shown in a case of this nature so that the indiscipline might percolate amongst the workmen as whole. For delay in passing the bills, the aggrieved persons could have approached their Union for starting a legal agitation but the aggrieved workman cannot be allowed to form a mob with the object of abusing and assaulting their superior officers.

33. Mr. Banerjee for the Union has challenged the domestic enquiry itself on the ground that the disciplinary authority had no jurisdiction to initiate the domestic enquiry against the delinquent workman. No such plea has been taken up in the written statement filed by the Union. The only objection which was taken in the written statement is that the Project Officer issued the charge-sheet without any valid authority. The question of jurisdiction was not at all taken in the written statement of the Union. Further at the time of hearing of the preliminary issue with regard to the validity or otherwise of the domestic enquiry, the Union did not press even their objection to the effect that the charge-sheet was issued without any valid authority. So at this belated stage, the objection regarding the jurisdiction of the disciplinary authority in initiating the domestic enquiry cannot be entertained and accordingly such submission of Mr. Banerjee is unacceptable. It has been stated in the written statement filed by the employer Company that the Eastern Coalfields Ltd. has grouped contiguous collieries and that there are large number of areas and that each area is headed by a General Manager who is also the Chief Mining Engineer of the area and that Parasea OCP falls within the Kunustoria area of the Eastern Coalfields Ltd. Such statement of the employer Company has not been denied. Accordingly I do not find also any substance in the submission of Mr. Banerjee when he says that the charge-sheet was issued by the disciplinary authority without any jurisdiction.

34. In view of what has been discussed above, I find that the employer Company was not unjustified in dismissing the concerned workman and that the concerned workman is not entitled to any relief.

This is my Award.
Dated, Calcutta,
The 4th January, 1990.

SUKUMAR CHAKRAVARTY, Presiding Officer

[No. I-19012(40)/84-D.IV.B/TR (C-III)]

नई दिल्ली, 19 जनवरी, 1990

का.आ. 374—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय, सरकार व मैसर्स सिंगरानी कोलियरी को. लि. एरिया-I रामगुण्डम डिविजन के प्रबंधन से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निरिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-1-90 को प्राप्त हुआ था।

New Delhi, the 19th January, 1990.

S.O. 374.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. S.C. Co. Ltd. Area-I, Ramagundam Division and their workmen, which was received by the Central Government on 17-1-90.

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri C. Rami Reddy. B. Sc., B.L., Industrial Tribunal.

Dated: 8th January, 1990.

Industrial Dispute No. 4 of 1989.

BETWEEN :

The Workman of S.C. Co. Ltd., Area-I,
Ramagundam Division,
P.O. Godavarikhani-505 214, Dist. Karimnagar (A.P)

AND

The Management of S.C. Co. Ltd., Area-I,
Ramagundam Division, P.O. Godavarikhani-505 214,
Dist. Karimnagar (A.P)

APPEARANCES :

None for the Workman.

M/s. K. Srinivasa Murthy, G. Sudha, and Mitra Das,
Advocates for the Management.

AWARD

The Government of India, Ministry of Labour by its Order No. L-21012/31/88-D.III.B/D.IV.B dated 16-12-1988 referred the following dispute under Section 10(1)(d) & (2A) of the Industrial Disputes Act, 1947 between the employers in relation to the Management of Singareni Collieries Company Limited, Area-I, Ramagundam Division and their Workmen to this Tribunal for adjudication :

"Whether the action of the Management of M/s. Singareni Collieries Co. Ltd., Area-I, Ramagundam Division in terminating the services of Sri Vijjetula Mallalah, Coal Filler, GDK 6 Incline with effect from 19-5-1979 is justified? If not, to what relief the workman concerned is entitled?"

This reference was registered as Industrial Dispute No. 4 of 1989 and notices were issued to the Workmen-Union requiring the Union to file claim statement on or before 22-2-1989. The Workmen Union received the notice but failed to file claim statement. Further the workman did not appear on 22-2-1989. Subsequently the case was adjourned from time to time and finally to 13-6-1989 for filing the claim statement of the workman. Neither the workman was present nor the claim statement was filed on 16-6-1989 so the workman was set aside.

3. The Management filed a counter stating as follows :—
The workman was initially appointed as Coal Fitter on

15-7-1987 at Kothagudem and he was transferred to GDK No. 6 Incline. He reported sick in the Company dispensary on 23-2-1979. He was made fit to attend the normal duty as Coal Filler on 23-2-1979. In spite of fitness certificate given to him the workman absented himself from duty from 25-2-1979 to 19-5-1979 without prior permission or leave application. The Management invoked Section 11(c) of the Standing Orders of the Company and removed the workman from service w.e.f. 25-7-1979. The workman was placed in the bad list. He did not come to work as badli. On 18-7-82 the Union represented the case of the workman. The workman was sent for Medical examination on 30-3-1983 to reconsider his case for re-appointment. He was found medically unfit for any job. Another Union espoused the cause of the workman on 3-11-1986. The claim statement of the workman is a stale claim and it cannot be entertained. The termination of the workman is justified.

4. The point for consideration is whether the action of the Management in terminating the services of Sri Vijjetula Mallalah, Coal Filler, GDK No. 6 Incline with effect from 19-5-1979 is justified?

5. The Management examined one Sri M. Vithal Rao working as Deputy Personnel Manager of Ramagundam Area I as M.W.I. He spoke to the averments made in the counter. He filed a Certificate Dt. 6-2-1988 issued by the Superintendent of the Area Hospital as Ex. M1. It reveals that the workman was examined on 12-4-1980 and he was found suffering from T.B. It is clear from the evidence of M.W. I that the workman was absent from duty from 25-2-1979 to 19-5-1979 without leave application or prior permission. Further it is seen that Section 11(c) of the Standing Orders of the Company permits removal of the workman from service for such absenteeism. Further more the case of the workman was considered again by the Management on 18-7-1982 and the workman was found unfit for employment as per the Medical Certificate Ex.M1 issued by the Superintendent of the Area Hospital. Further it is seen that the cause of the workman was not espoused from 1982 till 3-11-1986. Thus the claim of the workman is also a stale claim. The workman remained absent and there is no material on the side of the workman to show that the termination is not justified.

6. In the right of the above, the termination of the workman is not liable to be interfered with. Thus I find that the termination of the workman in question with effect from 19-5-1979 is justified.

7. In the result, the action of the Management of M/s. Singareni Collieries Company Limited, Area-I, Ramagundam Division in terminating the services of Sri Vijjetula Mallalah, Coal Filler, GDK No. 6 Incline with effect from 19-5-1979 is justified and he is not entitled to any relief.

Dictated to the Stenographer, transcribed by him corrected by me and given under my hand and the seal of this Tribunal, this the 8th day of January, 1990.

C. RAMI REDDY,
Industrial Tribunal

Appendix of Evidence.

Witnesses Examined on
behalf of the Workmen:

Nil

Witness Examined on
behalf of the Management:

M. W1 M. Vithal Rao

Documents marked for the Workman:

Documents marked for the Management:

Ex. M1 Letter from Superintendent, Area Hospital, Ramagundam to P.M. R.G. I with regard to Medical report of Sri Vijjetula Mallalah.

signed

C. RAMI REDDY,
Industrial Tribunal

[No. L-21012/31/88-D.III.B/D.IV.B/IR(C-II)]

का.श्रा. ३७५—औद्योगिक विवाद अधिनियम, १९४७ (१९४७ का १४) की धारा १७ के अनुसरण में, केन्द्रीय सरकार व भारतीय खाद्य निगम, आदीपुर (कच्छ) के प्रबंधन से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण, अहमदाबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को १७-१-९० को प्राप्त हुआ था।

S.O. 375.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Industrial Tribunal, Gujarat, Ahmedabad as shown in the Annexure in, the industrial dispute between the employers in relation to the management of Food Corporation of India, Adipur (Kutch) and their workmen, which was received by the Central Government on 17-1-90.

ANNEXURE

BEFORE SHRI G. S. BAROT, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
AHMEDABAD

Reference (ITC) No. 4 of 1986

ADJUDICATION

BETWEEN :

Food Corporation of India,
Aditpur/Kandla

AND

Their Workmen

In the matter of termination of services of Shri V. Mussalaya, Loader-263 G. etc.

APPEARANCES:

Shri R.K. Shah with Nayana Dave, Advocates for the F.C.I.;

Kum. N.V. Vora, Advocate for the workman.

AWARD

The industrial dispute between Food Corporation of India, Adipur (hereinafter referred to as 'the FCI' and Their Workmen has been referred for adjudication to me u/s. 10(1)(d) of the Industrial Disputes Act, 1947, by Government of India, Ministry of Labour, Order No. (illegible) dt. 10-2-86 in respect of termination of services of Shri V. Mussalaya, Loader-263, etc.

2. The concerned workman Shri V. Mussalaya has filed his statement of claim at ex. 7 as verified by the Secretary, Kandla Gandhidham General Workers' Union, Gandhidham, hereinafter referred to as 'the union'. The FCI has filed its written statement at ex. 11. Both the parties have filed written evidence in support of their respective claims. The concerned workman Shri V. Mussalaya has deposed at ex. 14. The FCI is represented by Advocate Shri R. K. Shah along with Nayana Dave and the union is represented by Advocate Kum. N. V. Vora.

3. The facts of the case which are mostly not disputed are as under: that one Shri V. Mussalaya was working as a worker in the FCI since the year 1966 till 17-2-82 (i.e. the date of removal from service); that he was working as Loader in Loading Gang No. 263; that his services are governed under the scheme known as "Kandla Un-Registered Dock Workers (Regulation of Employment) Scheme 1968"; that he went on sanctioned leave for 40 days from 7-1-82 to 16-2-82 for visiting his home town in Andhra Pradesh for repairs to his house; that he could not resume his duties as scheduled as he fell sick and was required to take rest; that on completion of his treatment he approached the FCI but it did not allow him to resume duties.

4. The above facts are not disputed by the FCI. What is disputed is (1) that the concerned workman had gone on leave for undertaking repairs to the house and not on sickness ground. The say of the FCI is that the concerned workman had never cared to write for his sickness, if any,

till he resumed duties. The stand of the FCI is that the concerned workman is, as admitted by him also, as governed by "Standing Orders For The Foodgrains/Fertilizer Workers Of Senior Deputy Manager, Food Corporation of India, New Kandla Listed In the Pool Governed By The Provisions of the Kandla Unregistered Dock Workers (Regulation Of Employment) Scheme, 1968" These Orders are Certified Standing Orders by Certifying Officer For the State of Rajasthan And Gujarat and are certified under the Industrial Employment (Standing Orders), Act, 1946, which have been approved on 29-9-1970. Article 16 of the above Standing Orders pertains to "Leave" and they are reproduced below:

"(1) All applications for leave shall be submitted to the Admn. Body which is the sanctioning authority for grant thereof. The Administrative Body shall notify to the workers the procedure for grant or extension of leave etc.

(2) A worker who remains absent for a period of fifteen days or who does not report for work within seven days of the expiry of leave sanctioned to him, shall be deemed to have voluntarily abandoned his service in the pool unless his absence is condoned by the Board."

As the concerned workman went on leave on leave from 7-1-82 and since these orders are certified on 29-9-70, the above Standing Orders are applicable to him. Under Article 17 of the above Standing Orders certain acts and omissions are treated as Misconducts and at s. no. (xxi) "Habitual absence without leave or irregular attendance" is also treated as misconduct. The case of the FCI is found in the Office Order No. KDL/LAB/PI/1-283-E dt. 24-12-1982. The original is produced at ex. 20(2) along with the Postal Acknowledgement duly signed by the concerned workman, is to the following effect:

"Whereas Shri V. Mussalaya listed loader bearing Wage No. 263-E was granted 41 days' leave from 7-1-82 vide o/o No. 1983/263-E dt. 15-1-81 and on expiry of leave he was due for duty back on 17-2-82. But he neither reported for duty on 17-2-82 nor sent any intimation about his whereabouts.

His above act thus attract to para-19(2) of the Certified Standing Orders which is reproduced hereunder:

"16(2): A worker who remains absent for a period of 15 days or who does not report for work within 7 days of expiry of leave sanctioned to him shall be deemed to have voluntarily abandoned his service in the pool unless his absence is condoned by Board.

In view of his voluntary abandonment of service his name is hereby delisted from the pool of listed workers of this Administrative Body with effect from the date of his unauthorised absence i.e. from 17-2-82."

Now, this office order has received by the concerned workman vide postal acknowledgement, produced at Ex. 20(1). In view of the clear picture emerging from the relevant Standing Orders, I do not think the concerned workman has any good case as he has not kept himself in touch with the FCI for whatever reasons best known to him.

5. In the cross examination the concerned workman says that he has written post card to his employer but he does not know at which address he has written the said alleged post card. He has also admitted in his cross examination that he sent his report by Reg. Post on 15-10-83 and earlier to that he has not sent any communication. Then in the next breath he says after three months of his dismissal he had sent his report. However, he does not have any proof. He has also admitted that he was signed an application for withdrawing CPF. Even in the sanctioned leave for 40 days he was granted, he is granted 17 days leave without pay

from 31-1-82 to 16-2-82. He has been paid ITC as demanded.

6. On the facts and circumstances I am of the opinion that this is a clear cut case of voluntary abandoning service and the position of law, i.e. the Standing Orders which are admittedly applicable to the concerned workman and the FCI having taken action as per the said Standing Orders there is no good case for the concerned workman on any other count. The Standing Orders are Certified Standing Orders and there is clear cut provision for over staying leave and that too for 19 months without proving any good reason for such long absence I am of the opinion that the demand of the concerned workman is not genuine, bonafide and just, and the same is, therefore, rejected. In the result the reference stands dismissed with no order as to costs.

7. However, on humanitarian grounds, I would request the authorities of the FCI if they could re-employ concerned workman on a suitable job as a fresh candidate as done in the case of Smt. Navaratnamaa, PP 1222, if it thinks proper.

Ahmedabad :

-Dt. 29-12-89.

G. S. BAROT, Presiding Officer
[No. L-42012(22)/85-D.V/IR(C.II)]

का.आ. 376—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैसर्स ईस्टर्न कोलफील्ड्स लि. का काजोरा क्षेत्र के प्रबंधन से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-1-90 को प्राप्त हुआ था।

S.O. 376.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Asansol as shown in the Annexure in the industrial dispute between the employers in relation to the management of Kajora Area of M/s. Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 18-1-90.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL ASANSOL

Reference No. 41/88

PARTIES :

Employers in relation to the management of Kajora Area of M/s. Eastern Coalfields Ltd.

AND

Their Workmen.

PRESENT :

Sri N. K. Saha, Presiding Officer.

APPEARANCES :

For the Employers—Shri P. K. Das, Advocate.

For the Workmen—Sri Manoj Mukherjee, Advocate.

INDUSTRY : Coal

STATE : West Bengal

Dated, the 5th January, 1990

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication under Order No. L-24012(13)/83-D.IV (B) dated the 21st June, 1988.

SCHEDULE

"Whether the action of the Management of Kajora Area of M/s. E.C. Ltd., P.O. Kajoragram, Dist. Burdwan (W.B.) in denying protection of pay to S/Sri Balchand Jaswara, Balaram Jasowara, Mahes Jasowara, Lahman Jasowara and Gyanchand Dusad, is justified? If not, to what relief are the concerned workmen entitled?"

2. Today (5-1-1990) Sri Manoj Mukherjee the learned Advocate for the workmen has submitted that he has no instruction to proceed with the case. He has prayed for passing appropriate order. Sri P. K. Das the learned Advocate for the management is also present.

3. As the learned Lawyer for the union has no instruction from his clients to proceed with the case, it must be presumed that no dispute exists between the parties. As such I have no other alternative but to pass a 'no dispute' award in this case. Hence a 'no dispute' award is passed.

This is my award:

N. K. SAHA, Presiding Officer
[No. L 24012(13)/88-D.IV.B/IR (C-II)]

का.आ. 377—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैसर्स सिंगरानी कोलफील्ड्स लि.; बेलमपल्ली, आदिलाबाद के प्रबंधन से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-1-90 को प्राप्त हुआ था।

S.O. 377.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Singareni Collieries Co. Ltd., Bellampalli, Adilabad and their workmen, which was received by the Central Government on 17-1-90.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri C. Rami Reddy, B.Sc., B.L., Industrial Tribunal.

Dated, the 28th December, 1989

Industrial Dispute No. 46 of 1987

BETWEEN

The Workmen of S.C. Co. Ltd., Bellampalli, Adilabad District (A.P.)

AND

The Management of S.C. Co. Ltd., Bellampalli, Adilabad Dist. (A.P.)

APPEARANCES :

Sarvasri M. Pandu Ranga Rao and B. G. Ravinder Reddy, Advocates—for the Workmen.

Sri K. Srinivasa Murthy and Miss G. Sudha, Advocates—for the Management.

AWARD

The Government of India, Ministry of Labour, by its Order No. L-21012/58/87-D.III (B) dated 7-9-1987 referred the following dispute under Sections 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 between the employers in relation to the Management of Singareni Collieries Company Limited, Bellampalli, Adilabad A.P. and their workmen to this Tribunal for adjudication :

"Whether the action of the part of M/s. Singareni Collieries Co. Ltd., in relation to their Bellampalli Area in dismissing the services of Sri G. Srinivasa Rao, Driver with effect from 4-12-1983 is fair and justifiable? If not to what relief the workman is entitled?"

This reference was registered as Industrial Dispute No. 46 of 1987 and notices were issued to the parties.

2. The workman filed a claim statement contending as follows: He was appointed as a Driver in the year 1966 under the Management. A charge sheet dated 8-11-1982 was issued to him by the Deputy Controller of Stores, Bellampalli alleging that on 22-10-1982 at 12.30 P.M. he was found carrying 22 unauthorised passengers in the lorry ADI 2890 and the same amounted to wilful disobedience of the instructions of the superiors. He submitted an explanation dated 19-11-1982 stating that he never carried any unauthorised passengers. The Deputy Controller of Stores by a letter dated 4-3-1983 ordered an enquiry. The workman gave letters dated 21-4-1983, 23-4-1983 and 28-4-1983 requesting the Management to conduct the enquiry in Telugu. There was no reply to these letters. He was not informed even the name of the Enquiry Officer. The enquiry was conducted by the Enquiry Officer in violation of the principles of natural justice. In spite of specific request by the workman to conduct the enquiry in Telugu, the enquiry proceedings were recorded in English as he liked, since he (Enquiry Officer) was a subordinate officer to the Deputy Controller of Stores. There was no Management representative during the course of enquiry and the Enquiry Officer played the role of a prosecutor and the Judge. A copy of the report of the Enquiry Officer was not supplied to the workman in spite of his request for the same. The workman was dismissed from service by an order of the General Manager, Bellampalli Area dated 3-12-1983. The said dismissal order is contrary to the Standing Orders of the Company. The charge sheet was issued by the Deputy Controllers of Stores. The dismissal order was passed by the General Manager of the Company. As per the Standing Orders of the Company, it is only the Manager who is competent to issue charge sheet and to pass the dismissal order. Surprisingly the General Manager who is the Appellate Authority passed the order and therefore the Dismissal Order is illegal and void. As Appellate Authority himself passed the dismissal order, an important right available to the workman is taken away and as such the dismissal order is liable to be set aside. The Management had also taken into consideration the past charges for dismissing the workman from service. No opportunity was given to the workman to explain the past charges before taking the said past charges into consideration by the Management while dismissing the workman from service. Thus the order is liable to be set aside. The workman is entitled for reinstatement into service with full back wages and other attendant benefits.

3. The Management filed a counter contending as follows: The workman was given full and fair opportunity to defend his case in the enquiry. The enquiry officer examined seven management witnesses while the workman examined four witnesses including himself on his side. The workman fully participated in the enquiry and cross examined the Management witnesses. The Enquiry Officer forwarded the proceedings as well as the findings for the Management and the Management after going through the enquiry report, past record of the workman and by applying its mind, passed the dismissal order dated 3-12-1983. At the time of initiating the disciplinary action against the workman, Industrial Dispute No. 1 of 1982 was pending before this Hon'ble Tribunal. So the Management filed an application in M.P. No. 170/83 before this Tribunal to approve the action of the Management, in dismissing the workman under the dismissal order dated 3-12-1983. The workman filed a counter with identical grounds which are raised in the present claim statement. This Tribunal also held the enquiry as fair and proper and approved the action of the Management in the order passed in his No. 170/83, Aggrieved by the Order passed in M.P. No. 170/83 the workman had chosen to raise the present industrial dispute. It is true that the workman had requested the Management to record the proceedings of the enquiry in Telugu. The Management pointed out that the practice is to record the proceedings in English and the proceedings were read over and explained to the workman. The Enquiry Officer also

explained to the workman the normal practice in conducting of the enquiry and how the proceedings are conducted. The workman was convinced with the explanation given by the Enquiry Officer and the workman fully participated in the enquiry. A fair opportunity was given to the workman to defend his case. The Management requested this Tribunal in M.P. No. 170/83 to decide the validity of the domestic enquiry and that this Tribunal considered the various contentions raised by the workman and gave a finding to the effect that the domestic enquiry conducted by the Enquiry Officer is conducted properly, following the principles of natural justice. The workman has not chosen to challenge the order passed by this Tribunal with regard to the validity of the domestic enquiry. So there cannot be two views with regard to the same thing. The allegation that the Enquiry Officer played the role of a prosecutor and Judge is not correct. Such an allegation was not made in M.P. No. 170/83. The workman is estopped by this conduct to make such false and frivolous allegations against the Enquiry Officer. On the validity of the domestic enquiry, this Tribunal had already given a finding in M.P. No. 170/83 and the said findings are binding on the workman. As an abundant caution, the Management submits that in view of the various allegations made herein, the validity of the domestic enquiry has to be taken as a preliminary issue. In case this Tribunal comes to the conclusion that the enquiry was not conducted properly, it is necessary to permit the Management to adduce additional evidence to prove the charges before this Tribunal. It is submitted that the competent authorities during the relevant time, have issued a charge sheet and then passed a dismissal order. A perusal of the dismissal order clearly indicates how the Management took the decision to dismiss the workman. It is submitted that the misconduct is grave in nature and as such the management was constrained to dismiss the workman. It has gone through past, record and applied its mind, but the allegation that the previous warnings were taken into account for dismissing the workman is not correct. It is also settled law that at the time of passing the dismissal order the Management has to look into past record to find out the conduct of the workman and also the present misconduct before passing an order. The dismissal order passed by the Management is as per law. The workman is not entitled either for reinstatement or for back wages.

4. The points for determination are as follows:

- (1) Whether the domestic enquiry was conducted properly following the principles of natural justice?
- (2) In case the domestic enquiry is held proper whether the charges issued against the workman constituting misconduct under 16(1) of the Standing Orders are proved?
- (3) In case the misconduct is proved, whether the dismissal of the workman is justified and if not to what relief the workman is entitled?

5. Two witnesses were examined on behalf of the Management MW-1 is Sri Venkat Reddy who conducted the enquiry against the workman. He filed Exs. M-1 to M-9. MW-2 is a Deputy Personnel Manager by name K. V. Subba Rao. He filed record relating to M.P. No. 170/83 in I. D. No. 1/82. The documents marked through MW-2 are Exs. M-13 to M-16. With the consent of both the parties Exs. M-10 to M-12 were marked on the side of the Management. As against the above evidence, workman gave evidence as WW-1 and marked Ex. W-1. Ex. C-1 which is the original of Ex. W-1 was found in the record and it is marked as Ex. C-1.

6. The evidence of the workman on the validity of the domestic enquiry is as follows: "I represented to the Enquiry Officer that the enquiry shall be conducted in Telugu as I do not know English language. I gave a letter dated 21-4-1983 marked as Ex. M-6 to the Enquiry Officer to the same effect. I gave another letter dated 28-4-1983 (marked as Ex. M-7) requesting the Enquiry Officer to conduct enquiry in Telugu. The Management gave a reply dated 24-2-1983 marked as Ex. M-8. I made an endorsement on Ex. M-8 to the effect that I would sign in the proceedings if the proceedings are written in Telugu." Replying on the above evidence it is urged by the half of the workman that in spite of specific request by the workman to the Enquiry Officer to conduct the enquiry in Telugu, the Enquiry Officer conducted the enquiry in English, that the workman does not know English, that on account of the conducting of enquiry in English, the workman could not

participate in the proceedings effectively. The Management is not disputing the request made by the workman to the Enquiry Officer, under Exs. M-6 and M-7 for the conducting of proceedings in Telugu. The workman was given a reply dated 24-4-1983 (Ex. M-8) for Ex. M-6 and M-7. It is stated in Ex. M-8 that the workman need not have any doubt regarding the fairness of the enquiry and that the enquiry will be conducted in English as per the existing practice in the Company. Ex. M-4 is the enquiry proceedings. The request made by the workman on 21-4-1983 and also the request made by the workman on 23-4-1983 before the Enquiry Officer for conducting of enquiry in Telugu are recorded by the Enquiry Officer in the proceedings of enquiry dated 21-4-1983 and 23-4-1983. It is also mentioned in the enquiry proceeding dated 23-4-1983 that the Enquiry Officer explained to Sr. Nivasa Rao workman that the enquiry will be conducted as per the existing practice in the Company and in this case also the same practice will be followed and that the enquiry would be conducted fairly. Further it is seen from the proceedings that the proceedings was explained to the workman in Telugu and that specific mention is also made to the same effect in the proceedings. The Enquiry Officer (MW-1) also stated in the evidence that all the witnesses were examined in Telugu and the depositions were recorded by him in English as per the normal practice in the Company, that at the stage of recording of evidence, the workman did not protest for the recording of evidence in English and that the workman fully participated in the enquiry. Further he stated in the cross examination that he recorded in English because it was easier and convenient to record the evidence in English. The fact that the workman attended the dates of enquiries and cross examined all the witnesses clearly suggests that he was able to follow the evidence of Management witnesses and that the workman was not put to any handicap for not recording the proceedings in Telugu. Had there been any difficulty for the workman to follow the proceedings written in English, the natural of the conduct of workman would have been to disassociate himself with the participation in the enquiry. Admittedly he had not done so. Thus I am of the view that the workman was not put to handicap for the reason of the enquiry proceedings being written in English. So I find that no illegality on the part of the Enquiry Officer in conducting the proceedings in English.

7. The next contention advanced on behalf of the workman is that he was not furnished with the copy of the complaint said to have been given against the workman. The workman came forward with the said version in his evidence. It is significant to note that the workman did not raise this objection neither in the claim statement or in the enquiry proceedings. Whatever it may be the Enquiry Officer did not rely upon any written complaint said to have been given against the workman, in regard to the incident in question. So when the Management has not relied upon such a document to prove the charges against the workman before the Enquiry Officer, the question of furnishing the copy of the complaint to the workman does not arise. It is not a case where the workman demanded the enquiry officer of the management to furnish copy of the complaint to him during the enquiry proceedings and that the Management refused to furnish such a complaint to the workman in spite of the demand made by the workman for furnishing such copy of the complaint. In the circumstances I am of the view that no prejudice is caused to the workman in this regard.

8. The next contention advanced on behalf of the workman is that the Enquiry Officer played the role of both the Prosecutor and Judge and that the Enquiry Officer put questions to the management witnesses and elicited the answers in the enquiry proceedings, and that the Enquiry Officer also put the questions to the workman and elicited the answers in the enquiry proceedings and that there was no representative on behalf of the Management during the enquiry proceedings. I find it difficult to agree with the above contention. There is nothing on record to suggest that he identified with the Management in conducting the enquiry proceedings. He admitted in the cross examination that he examined seven witnesses on behalf of the Management and four witnesses on behalf of the workman. He also admitted that there was no representing officer for the Management. It is the duty of the Enquiry Officer to examine the witnesses produced by both the parties in order to find out whether the charges issued to the workman is proved or not. In the present case also the Enquiry Officer performed his duty in examining the witnesses both on behalf of the Management and workman. There

is nothing in the enquiry proceedings to show that the enquiry officer cross examined any of the witness. On the other hand, it is one Sri Seshasai representing the management, cross examined the workman and his witness in the enquiry proceedings as is seen from the enquiry proceedings. In the light of the above, this contention of the workman fails.

9. The last contention advanced on behalf of the workman is that the Enquiry Officer did not furnish the list of witnesses to the workman at the time of commencement of the enquiry proceedings. The Enquiry Officer (MW-1) admitted that the list of witnesses were not given to the workman. The workman did not state in the evidence as to how he was prejudiced by the non-furnishing of list of witnesses to him. It is seen from the enquiry proceedings that the workman was given full opportunity to cross examine the witnesses produced by the Management and the workman also cross examined the management witness in the enquiry. So I am of the view that the nonfurnishing of list of witnesses to the workman has not resulted any prejudice to the workman.

10. It is admitted that the Management filed an application before this Tribunal in M.P. No. 170/83 under Section 33(2) (b) of the I. D. Act for approval of the action of the management in dismissing the workman in question, under the dismissal order dated 3-12-1983 and the validity of the domestic enquiry was taken up as a preliminary issue in M. P. No. 170/83 and this Tribunal in its order dt. 20-12-1984 gave a finding that the enquiry was held properly following the principles of natural justice. The order dt. 20-12-1984 passed in M. P. No. 170/83 in I.D. No. 182 is marked as Ex. M13 by the Management. The workman raised identical grounds which are raised in the present claim statement questioning the validity of the domestic enquiry. It is also admitted that the workman had not chosen to challenge the order dated 20-12-1984 (Ex. M13) passed in M. P. No. 170/83. The learned counsel for the Management no doubt contended that the workman is estopped by his conduct in raising the very same contentions which the workman had raised in M. P. No. 170/83, in the present claim statement. Whatever it may be the above discussion clearly goes to show that the enquiry is not vitiated and that the enquiry was held properly following the principles of natural justice. Thus Point 1 is answered accordingly.

11. The charge sheet issued against the workman is marked as Ex. M1 and it is as follows : "On 22-10-1982 in 1st shift you were deputed to work on API 2890 Lorry for bringing timber from Jangaram. It is reported that at around 12.30 P.M. near 22 Km. stone towards Luxettipet (from Mancherial) you were found carrying 22 unauthorised passengers in the above lorry contrary to the general instructions not to carry unauthorised persons in our lorries. This amounts to wilful disobedience of the lawful instructions of your superiors and therefore amounts to misconduct under Company's Standing Order 16(1)". The Management examined seven witnesses during the enquiry. The workman examined four witnesses including himself during the enquiry. The proceedings of the Enquiry Officer are marked as Ex. M4. The report of the Enquiry Officer is marked as Ex. M5. The main witness to the incident are S. A. Khader who is the Driver of Sri D. V. Paranjpe, Executive Director and Sri D. V. Paranjpe, Executive Director. They were examined as M. W2 and M. W6 respectively during the enquiry. It is in the statement of Sri D. V. Paranjpe Executive Director that on 22-10-1982 at around 12.00 p.m. to 12.30 p.m. he was proceeding in the car driven by his driver S. A. Khader on his way to Bellampally from Hyderabad, that he crossed Luxettipet that he saw one Company's lorry coming from the direction of Mancherial and going towards Luxettipet, that he came close to the lorry in his car, that he saw number of people in the driver's cabin and also number of people standing in the lorry, that he signaled the lorry to be stopped, that the lorry was stopped, that he sent the driver of his car to bring the driver of the lorry, the driver came to him that he asked the driver of the lorry as to why he was carrying so many persons in the lorry, that the driver requested him to be excused, that he instructed his driver (S. A. Kader) to go to the lorry and count the number of persons in the lorry, that the driver S. A. Kader went and counted the persons in the cabin as well as the per-

sons in the body, that he came and told him that there were 22 persons in the lorry, that there were some women also in the lorry, that he instructed the driver to note the number of lorry that after reaching his place he conveyed the information to Singapurwala, Adll. Chief Engineer and advised him to take action. There is practically no material in the cross examination of this witnesses to discredit his testimony. Sri S. A. Kadar who was the driver of the Executive Director was also examined in the enquiry as M.W2. He corroborated the statement of D. V. Paranjpe, Executive Director in all material particulars. He gave the number of the lorry as A.P.I. 2890. He gave the name of the driver of the lorry as Srinivasa Rao who is the workman in question. No material is elicited in the cross examination of Sri S. A. Kadar affecting his testimony. Then there is the statement of S. J. Singapurwala, Additional Chief Engineer as M.W7 before the Enquiry Officer to the effect that Sri D. V. Paranjpe, Executive Director called him on the evening of 22-10-1982 and told him about the incident in question and that he contacted Sri S. S. Goud, Deputy Controller of Stores and asked him to take explanation from the driver and take suitable action in the matter. Sri S. S. Goud stated before the Enquiry Officer as M.W3 that he learnt the incident from S. A. Kadar, Driver as well as from Singapurwala, Additional Chief Engineer, that he called the workman Srinivasa Rao and enquired from him about the incident and that he issued a charge sheet to the workman.

11. Ex. M3 dt. 9-11-1982 is the explanation given by the workman in question to the charge sheet issued to him. He admitted in the explanation that on 22-10-1982 he was the driver of the lorry API 2890 that he was driving the lorry API 2890 to Jannaram, that he was nearing Luxettipet, that Executive Director Bellampalli came in a car from the opposite direction on the way to Bellampalli, that the Executive Director gave a signal to stop the lorry, that he stopped the lorry and met the Executive Director, that the Executive Director enquired me as to where I was taking the lorry, that I told him that I was proceeding to Jannaram to transport timber, that thereafter the Executive Director went towards Bellampalli and that he was surprised for having been charged for carrying passengers in the lorry. Thus the workman is not disputing the stoppage of the lorry API 2890 on 22-10-1982 by the Executive Director near Luxettipet. However there is a total denial of the carrying of unauthorised persons in the lorry by the workman in the explanation given by him. The workman also gave a statement in the enquiry. He stated that he was taking the lorry to Jannaram to bring timber, that on the way he was going at Itakala village near Luxettipeta, that a lorry belonging to Forest Department was stopped there due to some trouble in the lorry, that six Forest Guards, one Forester, one Forest Ranger were standing near that lorry, that the said Forest people asked for a lift, for dropping them at Luxettipet chourasta, that he obliged the request of the Forest people and allowed them to get into the lorry, that the lorry proceeded upto a distance of 100 meters that in the meanwhile the Executive Director came from the opposite direction on his way to Bellampalli, that the driver of the Executive Director gave a signal to stop the lorry, that he stopped the lorry, that he went to the Executive Director, that the Executive Director enquired him about the persons in the lorry that he informed the Executive Director about the Forest staff travelling in the lorry, that thereafter the Executive Director proceeded to Bellampalli that it was 10.00 a.m. or 10.30 a.m. It is significant to note that the workman did not dispute the time of occurrence in the explanation Ex. M3 given by him. However he has chosen to give the time of occurrence as 10.00 a.m. or 10.30 a.m. in the statement given by him before the Enquiry Officer. As seen from the above, that except in regard to the number of persons travelling in the lorry, the rest of the incident as spoken to by the Executive Director and his driver, is not disputed by the workman. Director as well as the statement of the Driver S. A. Kadar is to the effect that 22 unauthorised persons were travelling in the Company lorry driven by the workman in question on 22-10-1982. However the stand taken by the workman that he was carrying only 8 persons belonging to the Forest Department at that time. In the above discussion it is observed that the workman did not come forward in the

explanation (Ex. M3) about carrying 8 persons belonging to the Forest Department in the lorry at the time of the incident. On the other hand he denied carrying of any persons in the lorry, in the explanation given by him. Sri S. S. Goud Deputy Controller of Stores who issued the charge sheet to the workman also stated that the workman told him that he was carrying only 8 persons belonging to the Forest Department at the relevant time when he enquired the workman about the incident. On M. M. Baniah who was the cleaner in the lorry at the relevant time also stated before the Enquiry Officer that there was only 8 persons belonging to the Forest Department in the lorry at the relevant time. It is also admitted that the workman produced a letter dt. 22-10-1982 given by the Deputy Range Officer marked as Ex. C1 during the enquiry before the Enquiry Officer on 30-10-1983 in order to show that eight persons belonging to the Forest Department travelled in the lorry Ex. C1 is not addressed to anybody. The Deputy Range Officer requested the letter Ex. C1, not to take any action against the driver stating that six Wachers, and two Officers belonging to the Forest Department travelled in the lorry API 2890 on 22-10-1982. In my view Ex. C1 may be relevant to show that 8 persons belonging to the Forest Department travelled in the lorry API 2890 on 22-10-1982. The statement of the Executive Director and that of S. A. Kadar coupled with the statement of Sri S. S. Goud, Deputy Controller of Stores and Singapurwala, Assistant Chief Engineer clearly go to show that 22 persons travelled in the lorry at the relevant time. It is quite possible that 8 persons belonging to the Forest Department might have been there among the 22 persons found travelling in the lorry API 2890 by the Executive Director and his driver S. A. Kadar. The case of the workman as stated by him in the statement before the Enquiry Officer as well as evidence before this Tribunal is that Sri Kistiah, Divisional Engineer gave oral instructions to him to take Forest people and Police people in the lorry whenever they requested for lift in the lorry, that as per the instructions he was carrying 8 persons belonging to the Forest Department in the lorry at the relevant time. It is significant to note that the workman did not mention in the explanation Ex. M3 about the instructions given by Kistiah for taking Forest people and Police people in the lorry. The workman no doubt examined one P. Ramulu, Abdul Kadar, Syed Akbar in regard to the instructions issued by Sri Kistiah to carry Forest people in the lorry. Sri Kistiah gave a statement during the enquiry to the effect that he gave oral instructions at one time for taking Forest officials of Kagaznagar Depot (Vempalli village) from Kagaznagar town to Kagaznagar Depot (Vempalli village) which is four kilometers away from Kagaznagar Town and vice versa. In the light of the denial by Sri Kistiah, the above version given by the workman and his witnesses does not carry conviction. In the present case there were 14 persons travelling in the lorry apart from 8 persons whose travelling in the lorry is admitted by the workman. It is admitted by the workman in his evidence that he is aware of the circular dt. 25-7-1981 giving instructions to the driver not to carry any unauthorised persons in the lorry. Thus the allowing of unauthorised persons in the lorry by the workman on 22-10-1982 by the workman in question is contrary to the instructions issued by the authorities and the same amounts to disobedience to the lawful instructions constituting misconduct under Standing Order 16(1). The Enquiry Officer considered the statement of the witnesses examined by him during the enquiry and submitted his report Ex. M5 with reasons holding the workman guilty of misconduct under Standing Order 16(1). For the reasons stated above, I agree with the findings of the Enquiry Officer in this regard. Accordingly I find that the charge sheet issued to the workman is proved. Point 2 is held accordingly.

12. Point 3.—Ex. M12 is the dismissal order dt. 5-12-1983. The Disciplinary Authority stated in Ex. M2 that he had gone through the past record and found that there are no extenuating circumstances to take a lenient view. It is not a case where disciplinary authority took into consideration the past record of the workman to award severe punishment than what is needed. So the question of giving opportunity to the workman in respect of past record does not arise in the present case. The learned counsel for the workman submitted that the workman is a permanent driver of the Company from the year 1966, that the nature of the charge does not warrant punishment like dismissal, that the dis-

dismissal awarded by the Management is shockingly disproportionate to the gravity of the charge issued to the workman, that the wide discretion is given to this Tribunal under Section 11-A of the I.D. Act to interfere with the order of dismissal, that a lenient view may be taken and the workman may be reinstated with back wages. I am inclined to think that the punishment of dismissal awarded to the workman is too severe to the charges proved against the workman. In the circumstances of the case, I feel that the stoppage of two increments with future effect with a direction that he shall be paid only 1/3rd of the arrears of salary from the date of termination till the date of reinstatement would meet the ends of justice. Thus the Management is directed to reinstate the workman with stoppage of two increments with future effect and the workman shall be paid 1/3rd arrears of salary only from the date of termination to the date of reinstatement.

Award is passed accordingly.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 28th day of December, 1989.

Sri C. RAMI REDDY, Industrial Tribunal
[No. I-21012](58)/87-D./II, R. (C. II)]
R. K. GUPTA, Desk Officer

Appendix of Evidence

Witnesses Examined

for the Management :

M.W1 K. Venkat Reddy.
M.W2 K. V. Subba Rao.

Witnesses Examined

for the Workmen :

W.W1 G. Srinivas Rao.

Documents marked for the Management

- Ex. M1 Charge Sheet dt. 8-11-82 issued to G. Srinivas Rao, by the Dy. Controller of Stores, S. C. Co. Ltd., Bellampalli.
- Ex. M2 True Copy of the acknowledgement of charge sheet by G. Srinivasa Rao, dt. 9-11-82.
- Ex. M3 Explanation to the charge sheet dt. 9-11-82 given by G. Srinivasa Rao to the Dy. Controller of Stores, S. C. Co. Ltd., Bellampalli.
- Ex. M4 Enquiry Proceedings.
- Ex. M5 Enquiry report dt. 26-11-83.
- Ex. M6 Request letter of G. Srinivasa Rao dt. 21-4-83 with regard to conduct the enquiry in telugu and to supply the day today proceedings.
- Ex. M7 Protest letter of G. Srinivasa Rao, dt. 28-4-83 for conducting the enquiry in English.
- Ex. M8 Reply dt. 24/25-4-83 given by Dy. Controller of Stores Bellampalli to the letter dt. 21-4-83 (Ex. M6) of G. Srinivasa Rao and advised him to appear for an enquiry on 28-4-83 at 9.00 A.M.
- Ex. M9 True Copy of the enquiry notice dt. 22-4-83 issued to G. Srinivasa Rao by the Dy. Cos. B.P.A.
- Ex. M10 By consent. One month wages paysheet in respect of G. Srinivasa Rao, Driver.
- Ex. M11 By consent. Pay Sheet for three days from 1-12-83 to 3-12-83 in respect of G. Srinivasa Rao, Driver.
- Ex. M12 By consent. Photostat copy of the dismissal order dt. 3-12-83 issued to G. Srinivasa Rao, Driver by the General Manager, S.C. Co. Ltd., Bellampalli.
- Ex. M13 Certified copy of the Order dt. 20-12-84 in M. P. No. 170/83 in I.D. No. 1/82 on the file of Industrial Tribunal, Hyderabad

Ex. M14 Certified copy of the order dt. 23-1-86 in M. P. No. 170/83 in I.D. No. 1/82 on the file of Industrial Tribunal, Hyderabad.

Ex. M15 File relating to the charge sheet of G. Srinivas Rao.

Ex. M16 File relating to the charge sheet of G. Srinivas Rao.

Documents marked for the Workmen

Ex. W1 Photostat copy of the letter dt. 22-10-82 of the Deputy Range Officer.

Documents marked by the Tribunal

Ex. C1 Letter dt. 22-10-82 of the Deputy Range Officer (Original of Ex. W1).

सई दिल्ली, 14 जनवरी, 1990

का.आ. 378—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार शारदा ग्रामीण बैंक के प्रबंधन के संवर्द्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है।

New Delhi, the 16th January, 1990

S.O. 378.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Govt. Industrial Tribunal, Jabalpur as shown in the annexure, in the industrial dispute between the employers in relation to the management of Sharada Gramin Bank, Satna and their workman.

ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(13) of 1988

PARTIES :

Employers in relation to the management of Sharda Gramin Bank, Satna and their workman Sunderlal Kacher, Part-time Cleaner, Burhana Branch, Resident of P.O. Raigaon, District Satna (M.P.).

APPEARANCES :

For Workman—Shri C. S. Tiwari.

For Management—Shri G. D. Bairagi.

INDUSTRY : Gramin Bank. DISTRICT : Satna (M.P.)

AWARD

Dated : November 17, 1989

This is a reference made by the Central Government Ministry of Labour, vide its Notification No. L-12012/109/87-D. 11A dated 6-1-1988 for adjudication of the following dispute:

"Whether the action of the management of Sharda Gramin Bank in terminating the services of Shri Sunderlal Kacher, Part-time Cleaner, Burhana Branch, is justified? If not, to what relief the workman concerned is entitled to?"

2. Undisputed facts of this case are that Sunderlal Kacher was working with the management and he worked with the management from 16th May, 1983 to 2-6-1984. His services have been terminated.

3. Case of the workman in brief is that he was working with the management at Burhana Branch at a pay scale of Rs. 220 per month. Since 22-8-1984 his services have been terminated without any rhyme or reason. He had moved the Labour Commissioner, Satna, but no compromise could be effected; hence this reference.

4. According to the management, Sunderlal Kacher does not come within the ambit of 'workman'. He was a part-time worker and was paid Rs. 4 per day. He often used to remain absent from duty and since after 2nd June, 1984 he remained absent from duty. Explanation was called from him but he continued to remain absent and another man has been employed in his place so that the cleaning work of the Bank is not adversely affected. His termination does not come within the definition of retrenchment. There is only one post of Cleaner in the Branch and therefore it is not possible to take the workman back in the service. Thus his claim is liable to be rejected.

5. The workman has examined himself in support of his case and has stated that he was paid Rs. 120 p.m. but the payment was made weekly. Thus the statement of claim of the workman to the effect that he was paid Rs. 220 p.m. is false to his own knowledge and verification.

6. On the other hand, management has examined one P. C. Gupta and has also proved his Khata Ex. M/1 and the vouchers Ex. M/2, Ex. M/3 which corroborate the testimony of P. C. Gupta to the effect that the workman was kept on daily wages @ Rs. 4 per day. Even Sunderlal Kacher in his statement has also admitted that he was paid Rs. 120 p.m. and the payment was made weekly. Thus the case of the management has to be accepted to the effect that the workman was kept on daily wages @ Rs. 4 per day.

7. According to the management, Sunderlal Kacher was a part-time worker and therefore he is not covered within the definition of Sec. 2(s) of the I.D. Act. But this fact is established that there is a relationship of employer and employee between the parties. Once the relationship of employer and employee is established, its duration would not be material. Even a temporary or casual employee would fall within the ambit of this part of the definition of workman (See O. P. Malhotra on the Law of Industrial Dispute, Fourth Edition, Vol. I, at page 467).

8. While discussing the scope of Section 2(s) in the case of Basti Sugar Mills Ltd. Vs. Ram Ujagar (1963—II—LLJ 447 SC) Per Das Gupta J. at page 469 of the said Volume, it has been pointed that the workers employed by the Contractor to remove press-mud from the sugar factory were held to be "workmen" employed by the factory because removing press-mud was considered ordinarily to be a part of the sugar factory. Thus Sunderlal Kacher comes well within the definition of 'workman' as envisaged under Sec. 2(s) of the I.D. Act.

9. It has not been pleaded that the requirements of Section 25F have not been complied with and as such the other party had no occasion to point out whether the said provisions were complied with or not. Even assuming that the provisions of Sec. 25F of the I.D. Act were not complied with, the question arises whether this case would be covered within the definition of 'retrenchment' as provided under Section 2(o) of the I.D. Act. There is no dispute that the workman had completed one year of service (from 16-5-83 to 2-6-1984) as required by Sec. 25F of the I.D. Act. I have already pointed out that it is also not in dispute that the services of the workman were terminated with effect from 22-8-1984 (Para 4 of his statement of claim). According to Sunderlal Kacher, he had appeared before the management but it did not take him in service. While according to P. C. Gupta the workman did not appear since after 2-6-1984 and remained absent from duty. He has further stated that he never informed of his absence and he voluntarily stopped attending his duties. He has further stated that when the workman did not attend the duty for a longer time the management was compelled to employ one Lal Behari Patel in place of Sunderlal Kacher. It is obvious that since after 3rd June till 22nd August, 1984 no action was taken against the workman concerned which follows that the statement of Shri P. C. Gupta must be accepted and it must be held that due to long absence of workman another man was employed in his place and his services were terminated. This is my humble opinion would not be covered within the definition of 'retrenchment' because a part-time casual workman remained absent from duty for more than two months 230 GI/90—7,

without assigning any reason whatsoever and the management had no option but to employ another man for smooth running of the work.

10. In this view of the matter, I am not inclined to hold that the termination of the services of the workman amount to retrenchment and he was entitled to the benefit of Sec. 25F of the I.D. Act.

11. In view of the above discussions, I hold that the action of the management of Sharda Gramin Bank in terminating the services of Shri Sunderlal Kacher, Part-time Cleaner, Barhana Branch, is justified. The workman is not entitled to any relief. Awarded accordingly. No order as to costs.

V. N. SHUKLA, Presiding Officer
[No. L-12012/109/87-D.II.A/IR(B)]

का.आ. 379—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ राजस्थान लि. के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है।

S.O. 379.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the annexure, in the industrial dispute between the employers in relation to the management of Bank of Rajasthan Ltd., Lucknow and their workman.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

I.D. No. 99 of 1987

In the matter of dispute between :

The State Assistant General Secretary, U.P. Bank Employees Union, 36/1 Kailash Mandir, Kanpur U.P.

AND

The Regional Manager, Bank of Rajasthan Limited, Gurdwara Road, Karol Bagh, New Delhi.

AWARD

1. The Central Government, Ministry of Labour vide notification no. L-12012/13/87-D.IV(A) dated nil has referred the following dispute for adjudication to this Tribunal :

Whether the Manager, Bank of Rajasthan Ltd., Lucknow was justified in reverting Shri Praveen Kumar Misra to the post of Head Cashier from Special Assistant on 13-5-1986. If not, to what relief the workman was entitled?

2. The present case was fixed for 27-9-89 for filing of the affidavit from the side of the workman/Union. On 27-9-89, Shri K. N. Soni, who has been appearing from the side of the workman moved an application for withdrawal of his authority in instant case which was allowed. But since the workman had not come on that date it was ordered to issue notice fresh to the Union/workman on the address noted in the reference order and case was ordered to come up on 27-10-89 for affidavit evidence. I may mention here that till 27-9-89 no affidavit evidence was filed from the side of the workman/Union.

3. On 27-10-89, one Shri S. K. Bindal appeared from the side of the management but none appeared for the workman/Union. Shri Bindal submitted before the Tribunal that the workman had already been promoted to the post of Special Assistant and is presently posted at B.O. of

Bank of Rajasthan Aminabad, Lucknow. Shri Soni, who had been appearing for the workman prior to withdrawal of his authority from the case, also confirmed the facts stated by Shri Bindal before the Tribunal. Shri Soni further stated that he would file a statement to that effect through Shri Harmangal Prasad the State Assistant General Secretary of the Union who has espoused the present reference. Thereafter, the case was ordered to come up on 3-11-1989 for orders.

4. On 3-11-89, Shri Bindal appeared for the management but none appeared for the workman/Union. Despite assurance given by Shri Soni on the last date i.e. on 27-10-89, that he would file a statement of Shri Harmangal Prasad, State Asstt. Gen. Secretary, in writing in confirmation of the facts stated to by him on the last date, he filed nothing. Rather he stated that he had been directed by the said office bearer of the Union to state before the court that since there exist no dispute between the parties, the reference has become infructuous. As such one more opportunity was given to the Union/workman to file application to this effect and the case was ordered to come up for orders on 28-11-89.

5. On 28-11-89 none appeared from the side of the parties. From the order dt. 3-11-89, it appears that it was the workman/Union by whom the order dt. 3-11-1989, was to be complied with. Despite sufficient opportunity given to the workman/Union, the workman/Union did not comply with the orders which compel the Tribunal to take adverse inference to the effect that the workman/Union is not interested in prosecuting the case any more.

6. From the facts stated above, it appears that the workman/Union is not at all interested to prosecute the case. Hence a no claim award is given in the case against the workman/Union.

7. Reference is answered accordingly.

ARJAN DEV, Presiding Officer
(No. L-12012/13/87-DIV(A)/IR(B)-I)

का.प्रा. 380.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओरिएण्टल फायर एण्ड जनरल इश्योरेंस कं. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाश करती है।

S.O. 380.—In pursuance of Section 70 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the annexure in the industrial dispute between the employers in relation to the management of Oriental Fire and General Insurance Co. and their workmen.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 77 of 1988

In the matter of dispute between :

Smt. Raj Kumari 120/102 KA Baldari Lane Lalbagh
Lucknow.

AND

The Divisional Manager, Oriental Fire and General Insurance Co., LIC Investment Building 43 Hazratganj Lucknow.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-17012/9/87-DIV (A) dated 14-6-88 has

referred the following dispute for adjudication to this Tribunal :

Whether the action of the Assistant General Manager, Oriental Fire and General Insurance Company Lucknow, (Northern Region, New Delhi) in terminating the services of Smt. Raj Kumari after the office hours of 25-11-76 in violation of Section 25-F of the Industrial Disputes Act, 1947, is justified? If not, to what relief is the concerned workman entitled?

2. The admitted facts are that by means of letter of appointment dated 24-9-75, copy Annexure I to the affidavit of management witness Shri S. B. Verma, Assistant Manager the then Kumari Raj Kumari and now Smt. Raj Kumari was appointed as an Assistant (Clerical) on probation in the pay scale of Rs. 175—585 by the AGM (Northern Region). On the basis of the said appointment letter she gave her joining report on 3-10-85 vide copy of her letter Annexure II to the affidavit of the said management witness. The probation period which was initially for 6 months was extended twice by the Assistant General Manager (Northern Region). The first extension was by means of letter dated 10-7-76, copy annexure III to the affidavit of the management witness, by means of which the probation period was extended upto 30-6-76. The second time the probation period was extended upto September 1976 by means of letter dated 17-8-76, copy annexure IV to the affidavit of the management witness. Thereafter, by means of letter dated 22-11-76, copy annexure V to the affidavit of the management witness, the services of the workman were terminated w.e.f. from the close of business hours on 25-11-76. The reason given for termination of her services was that she had not satisfactory completed her probationary appointment.

3. The workman alleges that her appointment was against a clear vacancy under short fall quota her reserved for Scheduled Caste. According to her, her work had always been satisfactory. With the expiry of the period of probation she would be deemed to have been confirmed on 2-4-76 in the eye of law. She made representations to the management for her confirmation but in vain. Rather her probation period was extended from time to time. Her non confirmation in the post of Assistant amounted to unfair labour practice on the part of the management. She alleges that while terminating her services she was not given any notice or notice pay and retrenchment compensation. Then there was violation of the provisions of section 25-F. Further while terminating her services, the management did not observe the principle of Last come First Go. In the matter of termination of her services she was discriminated. For instance, the services of Shri Omkar Pandey, her counter part, were regularised although he remained on loss of pay for a number of days. She has therefore, prayed that she be ordered to be reinstated with full back wages and continuity of service.

4. The management have filed a very lengthy written statement running into 43 typed pages. The management pleads that conditions of her services relating to her probation and confirmation were governed by the letter of appointment dated 24th September, 1975. According to its terms and conditions there could not have been automatic confirmation on the expiry of the period of probation which under the said terms and condition could be extended at the discretion of the management. Since her work was not found satisfactory, her period of probation was extended from time to time. The management had always been liberal to her and gave her chance for improvement. Her services were terminated during the period of probation. Under law the management had the right to terminate her services during the probationary period on the ground of unsatisfactory performance without holding any inquiry. In fact it was not a case of retrenchment. The plea that her services were terminated by way of punishment without holding any inquiry and the plea that her services were terminated without compliance of the provisions of Section 25-F I. D. Act, cannot be taken together by the workman. As a matter of fact she had not actually worked for 240 days within a period of 12 months preceding the date of her termination. The management pleads that she never represented to the management regarding her termination.

5. In their written statement, the management have also raised pleas with regard to the date of termination and the authority which is said to have terminated her services on

the basis of the original reference order. But since subsequently by means of corrigendum dated 7-2-89, the reference order came to be amended, I need not refer to the pleas raised by the management, in this regard.

6. The workman has filed the rejoinder which like the w.s of the management is equally quite bulky running into 30 typed pages. Most of the facts have been repeated. The only new point raised is that due to mala fide intention she was not confirmed by the management.

7. In support of her case, the workman filed her 2 affidavits, one dated 28-4-89 and the second dated 9-11-89 and a number of documents. However, she produced her for cross examination on her first affidavit. She also examined her husband on 10-11-1989, to prove, one of her document. On the other hand, in support of their case, the management filed the affidavit of Shri SBL Verma Assistant Manager and a number of documents.

8. It has been argued by Shri P. L. Bhasin, authorised representative for the management that from the reference order it will be evident that at first the Central Government declined to make reference to the Tribunal about the dispute but subsequently on reconsideration of the representation made by the workman the Central Government made the present reference. According to him since the reference was without hearing the management on the representation of the workman it is bad in law. He submits that the principles of natural justice require that in the event of reconsideration of the decision already taken, the other party should also be given an opportunity to present his point of views.

9. On inquiry made by the Tribunal Shri Bhasin conceded that the management have not raised any such plea nor has led any evidence to that effect. This being so I find no substance in the contention of Shri Bhasin. Accordingly the first point raised by him is decided against the management.

10. Secondly, it has been argued by Shri Bhasin that according to the reference, the services of the workman were terminated w.e.f. 25-11-76 by the Divisional Manager, Lucknow, Annexure V to the affidavit of the management witness is the copy of letter. Dated 22-11-76 by means of which the services of the workman were terminated w.e.f. close of the business hours on 25-11-76, by the Assistant Divisional Manager (N.R.) and these facts are not denied by the authorised representative for the workman. The Tribunal cannot travel beyond the term of reference and as such the reference is bad in law.

11. After the receipt of the corrigendum dated 7-2-89 from the Central Government, Ministry of Labour, the above plea raised by Shri Bhasin, loses all its force. By means of said corrigendum the authority Divisional Manager Lucknow has been substituted by the AGM (NR) New Delhi and the date of termination has been substituted by words w.e.f. 25-11-76 after office hours. Thus both the drawbacks stand removed in the reference order by the corrigendum. Hence, the second point is also decided against the management.

12. Thirdly, it has been urged by Shri Bhasin that from the terms and conditions found stated in the letter of appointment it will be evident that confirmation is not automatic. He specifically referred to para 3 which lays down that confirmation in the service of the company is not automatic and that on satisfactory completion of probationary period a letter of confirmation in service will be issued by the company. The period of probation of Smt. Raj Kumari, was extended twice as is admitted to both the sides. The period of probation of Smt. Raj Kumari was extended twice as is admitted to both the sides. Therefore, even after the expiry of extended period of probation until a letter was issued by the company confirming her in the post of the Assistant, she could not be deemed to have been confirmed.

13. On the other hand, it has been submitted by Shri M. Shakeel, A.P. for the workman that the order of termination is not being challenged on this ground and if such a plea has been taken, he does not press the same on her behalf.

14. In view of the submissions made by Shri Shakeel, the point raised by Shri Bhasin, becomes besides the point.

15. Fourthly, it has been argued by Shri Bhasin, that it is not proved by the workman that she had completed 240 days

working during the period of 12 months preceding the date of termination of her services.

16. On the other hand, it is submitted by Shri Shakeel, that the fact stands proved from the evidence on record. It is the admitted case of the parties that in pursuance of the letter of appointment she joined service on 5-10-75 and her services were terminated from the close of office hours on 25-11-76. There is nothing on record to show that in between this period she had ever been on unauthorised absence. According to Sec. 25B(2) a workman shall be deemed to be in continuous service under an employer if during a period of 12 calendar months preceding the date with reference to which calculation is to be made, he has actually worked under the employer for not less than 240 days. He has then referred to sub sec. (1) of Sec. 25 B I.D. Act, according to which a workman shall be said to be in continuous service if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave etc. etc. He has referred to copy of letter dt. 30-8-76 which is annexure VI to the affidavit of the management witness. The A.R. for the management has relied on this letter as well as on General Rules, copy annexure VIII, to the affidavit of the management witness. The letter is on the subject of leave, availed of by the workman. In the letter it is stated that she had availed about 93 days leave during 10 months of her probationary period. It was also observed that she had remained absent even when no leave was due to her. She was informed that leave on loss of pay would not be sanctioned as a matter of right. The letter is from Sr. Divisional Manager (P), copy of which was endorsed to N.R.O. New Delhi. In the endorsement a request was made that leave on loss of pay be sanctioned to her. Annexure VIII refers to the effect of loss of pay on confirmation. According to it if an employee goes on leave on loss of pay during the period of probation, for any number of days, the confirmation of the said employee will be extended by the number of days of leave on loss of pay beyond the normal date of confirmation. Thus in terms of the General Rules, leave on loss of pay simply has the effect of extending the period of probation. There is not an iota of evidence from the side of the management to show that she was ever on unauthorised leave.

17. After hearing the two sides and considering the two documents, relied by Shri Bhasin and commented upon by Shri Shakeel, I am of the view that being not shown to have been on unauthorised leave for any period of time, she would be deemed to be in continuous employment for not less than one year within the meaning of section 25B I.D. Act during the period of 12 months preceding the date of termination of her service. Sh. M. Shakeel has rightly submitted that the effect of loss of pay on confirmation is simply that the period of probation gets extended by the number of days by which an employee remains on leave on loss of pay during the period of probation.

18. This point too is therefore decided against the management.

19. There is no evidence from the side of the management that she was ever given any notice or notice pay and retrenchment compensation before termination of her services. The provision of section 25F I.D. Act also applies to a probationer. Therefore, the order of termination cannot be upheld. It is void ab initio. The normal relief which the workman in such a case gets is of reinstatement with back wages and continuity of service. But in the instant case we will have to give a second thought in view of the circumstances which have come on record. The services of the workman were terminated after the close of office hours on 25-11-76 but she raised the industrial dispute before ALC(C) Kanpur on 18-10-1985 vide statement made by her in para 9 in cross examination and vide Ext. M-7 which is the copy of petition moved by her before ALC(C) under sec. 2-A I.D. Act. She had tried to lead evidence to show that since the termination of her service she had been constantly pressing for her reinstatement, but evidence led by her does not inspire much confidence. Annexure XIV to the list of documents dt. 28-4-89 filed by her referred to the photostat copy of her alleged representation dt. 26-11-76, addressed to the Chairman cum Managing Director of the company, New Delhi. In her examination-in-chief she has tried to prove that she

delivered the representation personally in the office of Chairman cum Managing Director of the company at New Delhi and obtained acknowledgement of its receipt in the said office. With her second affidavit dt. 9-11-89, she filed another copy of representation dt. 20-11-76 addressed to Chairman Cum Managing Director of the Company at New Delhi. She has marked it as Annexure 18. The annexure number has been given on the basis of the documents already filed by her with the above list. She herself did not come to prove it. Rather she examined her husband Shri Prem Chandra, to prove it. A look at annexure 14 and 18 will show that both contain the same matter Shri Prem Chandra has deposed that letter copy of which is annexure 18 was delivered by Smt. Raj Kumari in his presence in the Hazratganj, Lucknow Office of the company on 26-11-76. It is not understood how Smt. Raj Kumari could be present both at Lucknow and Delhi on 26-11-76. Secondly, the endorsement regarding its receipt in the office, seems to be by the same person. It is not understood how the same person was posted at the Lucknow Office and at New Delhi Office of the Company at one and the same time. Since there was an overwriting on the figure of the year in the letter annexure 18, originally was got filed. Shri Prem Chandra admitted that there was an overwriting in the figure of (7) in the year 1976, appearing at the foot of the representation. He further said that he could not say with any amount of certainty whether or not the figure (7) of the year 1976, had been made over the figure (8). Then there is observation by me and it is to the effect that prima facie it appears to the naked eye that figure (8) has been changed to figure (7). Thus she has tried to throw dust in the eyes of Tribunal as well as the other side by leading documentary evidence to show that she had submitted a written representation dt. 26-11-76 on the same day in the company's offices at Lucknow and New Delhi.

20. Smt. Raj Kumari has then tried to prove annexure 11/B and annexure 13 of the list of documents dt. 28-4-89: One purports to be the photostat copy of letter dt. 13-9-79 from Shri H. N. Bahuguna to Shri Narain Deen Gen. Secretary Hind Sewak Samaj (Lucknow) and the other purports to be photo copy of the letter dt. 23-11-78 from Shri Mohan Lal Pippal M.P. to Sh. H. M. Patil, Minister of Finance Govt. of India, New Delhi. The original of these letters were never produced nor summoned. No attempt was made to get them proved from officers acquainted with the signatures of Shri Mohan Lal Pippal and Shri H. N. Bahuguna. So these documents have no evidentiary value.

21. Any reference to authority other than the competent one with regard to termination of the services has no value for the purposes of condonation of delay. Therefore, she will be denied to have raised the matter for the first time on 18-10-85, when she filed a petition under sec. 2A I.D. Act before ALC(C), Kanpur.

22. Thus not only she is guilty of delay but she is also guilty of laches. Matter having not been agitated before a competent forum for atleast 9 years, the management must be deemed to have filled up the vacancy. So it is not a fit case, if reinstatement is ordered, to give her back wages and continuity of service.

23. It has been submitted by Shri Bhasin that as her services were terminated on account of unsatisfactory work her reinstatement should not be ordered. In support of his point Shri Bhasin has relied upon the letter of termination dt. 22-11-76 in which it is specifically stated that since she had not satisfactorily completed her probationary appointment she was not being confirmed in the service of the company and consequently her services would stand terminated at the close of business hours on 25-11-76. The Tribunal cannot substitute its own judgment with regard to performance of work by a workman.

24. After considering the facts and circumstances. I too am of the view that it is a fit case where reinstatement should not be granted; rather compensation be awarded to the workman.

25. Held that the action of the Assistant General Manager (NR) New Delhi in terminating the services of Shrimati Raj Kumari Assistant after office hours on 25-11-1976 was not

justified. But looking to the circumstances of the case instead of ordering her reinstatement and awarding her back wages I order that she should be paid a sum of Rs. 20,000/- as compensation.

26. Reference is answered accordingly.

ARIAN DEV, Presiding Officer
[No. L-17012/9/87-D.V. A/IR(B-1)]
PADMA VANKATACHALAM, Dy. Secy.

नई दिल्ली, 16 जनवरी, 1990

का.आ. 381.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, स्टेट बैंक आफ पटियाला के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, व श्रमिक न्यायालय, चंडीगढ़ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15 जनवरी 1989 को प्राप्त हुआ था।

New Delhi, the 16th January, 1990

S.O. 381.—In pursuance of Section 17 of the Industrial Putes Act, 1947 (14 of 1947), the Central Govt. hereby publishes the following award of the Central Government Industrial Tribunal-cum-Labour Court, Chandigarh as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of Patiala and their workmen, which was received by the Central Government on 15-1-90.

ANNEXURE

BEFORE SHRI M. S. NAGRA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, CHANDIGARH-160017

Case No. I.D. 97/89

PARTIES:

Employer in relation to the management of State Bank of Patiala.

AND

Their workman: Tilak Raj.

APPEARANCES:

For the workman: None.

For the management: Shri P. P. Tandon.

AWARD

Dated, the 11th December, 1989

On a dispute raised by Tilak Raj against the management of State Bank of Patiala, Central Government had vide No. L-12012/31/89-IR(V3) dated 19th May, 1989 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of State Bank of Patiala in not giving opportunity required U/s 25-H of the I.D. Act is justified? If not, to what relief the workman concerned is entitled to?"

2. Notice of the proceedings was issued to the workman who failed to put up appearance in spite of service through Regd. post. In the given circumstances of the matter it is not possible to proceed with the reference. The reference is returned as non-adjudicated for want of prosecution.

Chandigarh

[No. L-12012/31/89-IR(B-III)]
M. S. NAGRA, Presiding Officer

का.आ. 382.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ तरावानकोर के प्रबंधन के संबद्ध

नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रमिक न्यायालय एरनाकुलम के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15 जनवरी, 1990 को प्राप्त हुआ था।

S.O. 382.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the following award of the Labour Court, Ernakulam, as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of Travancore and their workmen, which was received by the Central Government on 15-1-90.

ANNEXURE

IN THE LABOUR COURT, ERNAKULAM

Thursday the 4th day of January, 1990

PRESENT :

Shri R. Raveendran, B.A., B.L., Presiding Officer,

Industrial Dispute No. 21 of 1987(C)

BETWEEN

The Managing Director, State Bank of Travancore, Head Office, Poojappura, Trivandrum.

AND

Their workman represented by the General Secretary, State Bank of Travancore Employees' Union Central Office, P.B. No. 157, Central Office, Building, Trivandrum.

REPRESENTATIONS :

M/s. Joseph & Kurian,
Advocates, Cochin-18.

...For Management.

Shri M. Ramachandran,
Advocate, Cochin-16.

...For Union.

AWARD

The industrial dispute between the above parties was referred to this Court for adjudication by the Government of India, Ministry of Labour, New Delhi as per order No. L-12012/158/86-D.II(A), dated 9-3-1987. The issue covered by the reference is as follows :—

"Whether the action of the management of State Bank of Travancore in discharging from service Shri C. T. Timothy, Cashier in the North Parur Branch of the State Bank of Travancore w.e.f. 30-12-82 is justified? If not, to what relief is the workman concerned entitled?"

II. Discharge of the workman from service was effected after a domestic enquiry regarding certain allegations levelled against the workman. The validity of the domestic enquiry was challenged by the workman. Therefore I considered the question as to whether there was a valid domestic enquiry as a preliminary issue. I answered that issue is in favour of the Management as per my order dated 13-11-1989. The finding of guilt rendered by the Enquiry Officer on charge Nos. 9 and 12 was confirmed by me in that order. Facts necessary for disposal of the case are narrated in that order which I shall here extract in full :—

"PRELIMINARY ORDER

The issue referred for adjudication to this Court by the Government of India, Ministry of Labour, New Delhi as per Order No. 12012/158/86-D.II(A) dated 9-3-1987 is the following :—

"Whether the action of the management of State Bank of Travancore in discharging from service Shri C. T. Timothy, Cashier in the North Parur Branch of the State Bank of Travancore w.e.f. 30-12-82 is justified? If not, to what relief is the workman concerned entitled?"

2. The workman has filed a claim statement stating as follows :—

The Asstt. General Manager of the Bank who had been nominated as the Disciplinary Authority had by his order dated 30-4-1982, found that all the charges had been proved against the workman and though a severe punishment of dismissal was warranted, considering the extenuating circumstances, it had been decided to discharge him. This order was in effect overruling the findings of the enquiry officer that of the allegations few charges had not been proved. The reason for the conclusion by the enquiry officer was that the prosecution had not brought sufficient materials to sustain the charge. The Disciplinary Authority however differed in his approach, as according to him, once an allegations was placed against a workman, it was his duty to disprove the same by bringing cogent evidence. The proceedings of the enquiry officer was vitiated. On the date of the preliminary examination the workman had been asked whether he admitted the charges. He had submitted that he denied charge Nos. 1, 4, 5, 6, 7, 8, 9 and 12. As regards charge Nos. 2, 3, 10 and 11 it had been stated that they were not charges in strict conformity with the definition of misconduct. But the enquiry officer had mistakenly assumed that they were admitted charges. The very approach was irregular and unwarranted. In fact the transactions were closed well before the charge-sheet and they had no ingredient of a misconduct. As regards Charge No. 6, the enquiry officer's finding was disbelieving the evidence tendered by the prosecution. He had come to his own surmises and assumptions and a biased approach was evident. The findings as regard that charge was therefore perverse and not at all sustainable. There was no evidence substantive charge Nos. 4, 5, 7 and 8. As regards them, the enquiry officer had taken a fair approach, but the Disciplinary Authority reversed the finding. His approach was basically defective and no sustainable. The complainants had never appeared to give evidence and the workman could not cross-examine authors of complaints. The details of the circumstances of charge No. 9 were not brought in evidence. In regard to the entries in an LIC chalan, there was an exchange of words. The allegations as a whole as regards the various charges including charge 11 were vague and concocted that it was practically impossible to defend them. Vague assertions that he was singing in the office, that he had indebted himself and was forced at dagger points to give back the amounts, that he had carried tales about persons or that he had misbehaved with customers always remained as allegations and not as proved charges. No proper enquiry was held and the findings are not sustainable. The penalty imposed in the circumstance has to be declared as illegal and irregular as the same evidently has been imposed on the basis that he is guilty of lapses 4, 5, 7 and 8 of which the enquiry officer had exonerated him. The punishment has to be held as thoroughly disproportionate and interfered with.

3. The Management has filed a reply statement contending as follows :—

The statement that the Assistant General Manager, the Disciplinary Authority had by his order dated 30-4-1982 found that all the charges had been proved against the workman is not correct. In the said order/show cause notice it is specifically stated that charge No. 1 has not been proved. The workman had repeatedly admitted and accepted 4 of the charges of misconduct. When the workman was specifically asked by the Enquiry Officer whether he accepts the charges he categorically accepted charge Nos. 2, 3, 10 and 11. Since the workman had accepted these charges, no evidence was adduced by the presenting officer to prove those charges of misconduct. In his explanation to the show cause notice against the punishment also he has not disputed the actual commission of the acts of misconduct. In the memorandum of appeal also the facts constituting the several acts of misconduct are admitted. The contention that acts of misconduct against item Nos. 2, 3, 10 and 11 do not constitute misconduct is unsustainable. The allegation that the Enquiry Officer had mistakenly assumed that they were admitted charges and had proceeded on erroneous assumption is not correct. It was only because of the workman's admission accepting the said charges of misconduct that no further evidence was adduced at the enquiry in support of the said

charges of misconduct. Regarding charge No. 6 the findings of the Enquiry Officer are proper and valid. The Enquiry Officer was justified in arriving at the conclusion and inferences from the fact that the particular witness was deliberately shifting his stand after having given a written complaint. Regarding Charge Nos. 4, 5, 7 and 8 the Disciplinary Authority was justified in arriving at his conclusion by differing from the findings of the Enquiry Officer. There is no substance in the allegation that the approach of the disciplinary authority was defective and no sustainable. The charge of misconduct of smoking inside the office during working hours had been admitted by the workman at the enquiry and even in his written statements and appeal memorandum. The contention that in view of the several allegations made by the Union no proper enquiry has been held is totally unsustainable. The enquiry was proper and valid. The findings of the Enquiry Officer and the disciplinary authority holding the workman guilty of the charges are proper and valid. The decision of the Appellate Authority cannot be challenged by the Union. The acts of misconduct admitted by the workman alone would warrant his dismissal from the service of the Bank. Such acts constitute gross misconduct under the provisions of Clause 19.5, and other provisions of the relevant settlements binding on the Management and workmen of the Banks and apart from the said provisions as well. Although the acts of misconduct admitted by the workman alone would have warranted the punishment of dismissal, the Management had given only the lesser punishment of discharge. If in any event the enquiry is found to be defective or invalid or the findings as perverse the Management may be given opportunity to adduce evidence to substantiate the acts of misconduct of the workman and justify the punishment.

4. The workman has filed a rejoinder reiterating the allegations in the claim statement and refuting the contentions in the reply statement filed by the Management.

5. The points that arise for considerations are whether the domestic enquiry conducted is legal and proper and whether the findings are supported by legal evidence?

6. For the Management MW1 was examined and Ext. M1 marked. For the workman WW1 was examined.

7. While the delinquent workman was working as Cashier in the Management Bank at N. Parur, a memo of charge was issued to him containing some serious misconducts and he was called upon to submit his explanation. In pursuance of this memo he has submitted his explanation. Not satisfied with the explanation submitted by the workman an enquiry was ordered by appointing an enquiry officer who conducted the enquiry and submitted his report as is evidenced by Ex. M1(a) series. The delinquent has challenged the report on the ground that the enquiry was conducted in violation of the principles of natural justice. But it can be seen from the deposition of MW1, the enquiry officer and Ext. M1 enquiry proceedings, that the delinquent has earnestly and effectively participated in the enquiry and he has cross-examined the witnesses of the Management. It can also be seen that the enquiry officer has given ample opportunity of being heard. In view of the fact that the Enquiry Officer has conducted the enquiry giving sufficient opportunity to the delinquent for defending his case, I hold that the enquiry was conducted following the principles of natural justice and I find that the enquiry conducted is legal and proper.

8. It can be seen that twelve charges were levelled against the delinquent and those charges are extracted below:

"(i) Smt. M. P. Alikutty, Eralil House, Neendoor, Vadakkera complained against you for the following:—

- (a) that you have obtained from her gold ornaments weighing 176 grams and worth Rs. 10,000 on some misrepresentation.
- (b) that you have pledged the said ornaments through different persons at the North Parur Branch of the Bank and received the loan amount for your use.
- (c) that she filed a criminal complaint against you for criminal breach of Trust. On making enquiries, it has come out that you have been arrested by the police and later left off on bail and the criminal case is pending.

(ii) You have drawn the following cheques on your Savings Bank Account No. 4195.

Sl. No.	Cheque No.	Date	Amount Rs.	Balance in SB Account Rs.
1.	431807	31-12-1976	250.00	1.96
2.	431808	30-1-1977	250.00	76.26
3.	664309	20-1-1977	438.00	6.26
4.	896947	24-2-1977	200.00	21.51
5.	431809	28-2-1977	251.49	1.50
6.	665419	5-4-1977	144.50	0.81
7.	664319	10-5-1977	31.50	1.11

Knowing fully well that there were no sufficient balance in your account to meet the cheques and therefore the cheques were returned unpaid.

(iii) You availed of the following gold loans as on 25-9-76.

in your name in excess of the limits permitted to staff members giving a house address at Cherai and without disclosing your official capacity in the Bank.

Sl. No.	G.L.No.	Loan amount Rs.	Outstandings Rs.
1.	1102/75	700.00	785.30
2.	1164/75	90.00	101.15
3.	1193/75	645.00	723.40
4.	1304/75	410.00	459.75
5.	127/76	255.00	275.40
6.	173/76	360.00	388.65
7.	607/76	360.00	374.10
Total			3,107.75

(iv) On the 12th January, 1978, Sri M. C. Dasan, Mekkaliparambil House, Elanthikkara, made a complaint that you have obtained from him Rs. 50 denomination note undertaking to give small denomination notes in exchange but you have not done accordingly. You have also failed to make good the amount.

(v) On the 21st February, 1978, Sri S. Gopi, Peon, S.N.H.S. Parur, approached you with a request to help him to fill up a Draft application form for sending Rs. 1,021. You have not only refused to help him but also abused him and threatened him stating "kachikalayum" and forcibly removed regard to that.

(vi) On the 18th July, 1979, at about 11.45 A.M., Sri M.H.V. Iyer, Steno-Typist of the Branch went out to attend to some personal necessities, when you approached him and threatened him stating "kachikalayum" and forcibly removed from his person a paper alleged to be a drafted complaint.

(vii) On the 16th October, 1979, Sri M. P. Jelin remitted at about 12 noon, Rs. 60 and requested you to expedite issue of the receipt. You have not only delayed him unnecessarily but also spoke to him harsh words. A written complaint has been preferred by him in that respect.

(viii) On the 9th February, 1980 Sri T.G.D. Panicker, holder of S.B. Account No. 5331 C, came to the Branch for remitting Rs. 230 in the said account. You took the money from him but remitted into his account Rs. 205 only. On enquiring you about this on the 11th February, 1980, you replied to him that you would be remitting the balance of Rs. 25 soon. Thereafter you expressed several excuses and has not paid the amount according to the written complaint preferred by him.

(ix) On the 27th June, 1980 you picked up a quarrel with Mr. K. C. Sebastian, Peon of the Branch on the latter enquiring of you whether LIC remittance was accounted at your end and you have in the course of exchange of words uttered filthy language which gave rise to written complaint from Sri V. K. Sulaiman, Teacher and two others. On the 11th June, 1980 also you abused other staff members.

(x) You are seen attending the office late and leave the office early without prior approval. On the 2nd March, 1979 you left the office before close of business. On the 30th June, 1980, 2nd July, 1980 and 8th July, 1980 you attended office late. On several days you left the office early resulting in delay and inconvenience.

(xi) You are seen smoking cigarettes/beedies inside the office during working hours and despite repeated oral advices to desist from this, and you are still persisting with your habit and practice.

(xii) The staff members of the branch have also jointly submitted a representation against you stating that your presence in the Branch has become a hindrance to them as well as to the smooth functioning of the Branch. They have specifically stated the following in support thereof.

(a) Constant use of vulgar language against the staff in the presence of customers.

(b) Narration of dirty stories publicly.

(c) Misbehaviour towards the staff and customers.

(d) Borrowing money from the staff and customers and postponing repayment regularly and turning violent if repayment is insisted.

(e) Humming and singing loudly during office hours.

The Bank therefor charges you as under :-

(a) Doing acts prejudicial to the interest of the Bank which are acts of gross misconduct under clause 19.5 (i) of the Bipartite Settlement 1966.

(b) Riotous or disorderly or indecent behaviour on the premises of the Bank which is an act of gross misconduct under clause 19.5(c) of the Bipartite Settlement of 1966

(c) Wilful insubordination or disobediences of any lawful or reasonable order of the management or of a superior which is an act of gross misconduct under Clause 19.5(e) of the Bipartite Settlement of 1966.

(d) Failure to show proper consideration, courtesy or attention towards customers or other employees of the Bank, unseemly or unsatisfactory behaviour while on duty, an act or minor misconducts under Clause 19.7(9) of the Bipartite Settlement of 1966.

(e) Unpunctual or irregular attendance under. Clause 19. (b) of the Bipartite Settlement of 1966.

(f) Breach of rule or business of the bank or instruction for the running of any department of the Bank under Clause 9.17(d) of the Bipartite Settlement of 1966."

It can be seen from the enquiry proceedings Ext. M1 that the workman has admitted the charge Nos. 2, 3, 10 and 11 when the charge was read over to him by the domestic enquiry officer and he has also put his signature in all the pages of Ext. M1 proceedings. Now he has stated in the claim statement that he has not admitted the charges. It can also be seen from his argument note submitted to the enquiry officer that he has stated as follows :-

2nd charge : Cheques returned from his SB account is correct and he repented for this act.

3rd charge : Regarding this charge he stated that he taken back 4 lots of gold loans prior to the receipt of the memo dated 31-8-1977 and he had taken back the remaining gold loans within a week after receipt of the memo. He also added that he has not availed of any gold loans from that day onwards.

10th charge : He stated that he feels sorry for the incidence on 30th June, 2nd July and 8th July, 1980. He also stated that there was no wilful act to cause inconvenience to the Bank.

11th charge : He admitted this charge in the argument notes. In view of these admissions made by the workman in his argument notes and in the reply to the charge read over to him by the Enquiry Officer, it has to be held that he has admitted the charge Nos. 2, 3, 10 and 11.

9. The domestic enquiry officer has found that charges 1, 4, 5, 7 and 8 are not proved by the Management. But the Enquiry Officer rendered a finding that the Management has succeeded in proving charge Nos. 6, 9 and 12. The 6th charge levelled against the delinquent is based on the allegations contained in Ext. P6 complaint filed by Sri M. H. Venkatchalam Iyer, Steno-Typist of the Branch. He alleges in the complaint that when he went out to attend some personal necessities the delinquent approached him and threatened him stating 'kachikalayum' and forcibly took away from him a paper alleged to be a drafted complaint. The Complainant was examined as PW12. But he has not spoken in support of the allegations contained in the complaint. No other satisfactory and reliable evidence is adduced by the Management to substantiate the allegations raised by the Complainant PW12, who himself reconciled the written allegations. In these circumstances it has to be held that there is no clear and convincing evidence to prove that the delinquent is guilty of charge No. 6. Hence I hold that the finding of the Enquiry Officer on charge No. 6 that the delinquent is guilty is not supported by any legal evidence and therefore that finding is perverse.

10. The 9th charge against the delinquent is that on the 27th June, 1980 he picked up a quarrel with Shri K. C. Sebastian, Peon of the Branch on the latter enquiring of him whether LIC remittance was accounted at his end and he has in the course of exchange of words uttered filthy language which gave rise to written complaint from Shri V. K. Sulaiman, Teacher and two others and on 11th June 1980 also he abused other staff members. This charge is levelled against the delinquent on the basis of a complaint given by Shri K. C. Sebastian, who was examined as PW23 in the enquiry. This witness has given evidence in support of the allegation. The delinquent has even not cross-examined the witness. It can also be seen that PWs 5 and 6 who are also the signatories of Ext P9 complaint would depose in support of the allegations contained in charge No. 9. Therefore the testimony of PWs 23, 5 and 6 would prove the allegations contained in Ext. P9 and therefore I hold that the finding of the Enquiry Officer that the charge No. 9 was proved against the employee is legal and proper and that finding is supported by legal evidence.

11. The 12th charge against the delinquent is that the delinquent has committed the following misconducts.—

- (a) Constant use of vulgar language against the staff in the presence of customers.
- (b) Narration of dirty stories publicly.
- (c) Misbehaviour towards the staff and customers
- (d) Borrowing money from the staff and customers and postponing repayment regularly and turning violent if repayment is insisted.
- (e) Humming and singing loudly during office hours.

This charge was framed against the delinquent on the basis of a written complaint Ext. P10 filed by 21 members of staff of the N. Parur Branch of the Management Bank where the delinquent was working at the relevant time. Ext. P10 complaint contains the misconduct as stated above. PWs. 10, 13 to 21, 23 and 25 have testified that the delinquent has committed the alleged misconduct. Their testimony would prove the fact that the delinquent is guilty of the charge. There is no reason to disbelieve the version of these witnesses because nothing is brought out in their cross-examination to discredit their version. PWs. 10 and 11 would also depose that the conduct and the character of the delinquent are unbecoming of an employee. But PW12 has not supported the allegations contained in Ext. P10. So also PW22 has stated in the cross-examination that he signed the complaint Ext. P10 only at the instance of the Union leader Shri Balagopalan. But in view of the fact that there is no reason to disbelieve the version of corroborated testimony of PWs 10, 13, to 21, and 25 it has to be held that the Management has succeeded in proving the charge No. 12 against the delinquent. Hence I hold that the finding of the Enquiry Officer that the delinquent is guilty of charge No. 12 is legal and proper and it is supported by legal evidence. Therefore I find that the finding of the Enquiry Officer on charge No. 12 also is proper and legal.

12. In these circumstances, on careful consideration of the entire evidence on record I find that the findings of the Enquiry Officer on charge Nos. 9 and 12 are sustainable, but the finding on charge No. 6 is unsustainable and it is found to be not proper and valid. Hence I hold that the delinquent has committed the misconduct as per charge Nos. 2, 3, 10 and 11 which are admitted by the delinquent and Charter Nos. 9 and 12 which are proved by the Management before the Enquiry Officer.

13. In the result it is hereby found that there was a proper and valid domestic enquiry and that the findings subject to the modifications mentioned above are correct."

III. The question that remains for adjudication is regarding the propriety, legality and justifiability of the punishment imposed on the delinquent workman. The delinquent was a Cashier in the Management Bank. The punishment imposed on the delinquent is discharge from service. There were twelve allegations against the delinquent. The domestic enquiry officer has found that charges 1, 4, 5, 7 and 8 are not proved by the Management. Charge Nos. 2, 3, 10 and 11 were admitted by the delinquent. The remaining charges viz., charge Nos. 6, 9 and 12 were found to be proved in the enquiry. In the preliminary order I have found that the finding of the enquiry officer on charge No. 6 is not supported by legal evidence and therefore that finding is perverse. But the findings of the enquiry officer on charge Nos. 9 and 12 were confirmed by me in the preliminary order. Charge No. 9 is that the delinquent picked up quarrel with Shri K. C. Sebastian, Peon of the Branch and he has also abused other staff members. Charge No. 12 is that he used vulgar language against the staff in the presence of the customers, narrated dirty stories publicly, misbehaved towards the staff and customer and borrowing money from the staff and customers and postponing repayment regularly and turning violent if repayment is insisted and also humming and singing loudly during office hours. In view of the fact that the incumbent was found guilty of charge Nos. 9 and 12 and also in view of the fact that the incumbent has admitted charge Nos. 2, 3, 10 and 11, I hold that the punishment of discharge imposed on the delinquent

by the Management is quite reasonable and justifiable and no interference by this court is called for under Section 11-A of the I. D. Act.

IV. In the result an award is passed confirming the punishment imposed on Shri C. T. Timothy, viz., discharge from service with effect from 30-12-1982. The workman is not entitled to any relief in this reference.

Ernakulam,
4-1-1990.

R. RAVEENDRAN, Presiding Officer
[No. L-12012/158/86-D.II(A)]

APPENDIX

Witness examined on the Management's side :

MW1 Shri V. Geekarghesse.

Witness examined on the Workman's side :

MW1 Shri C. T. Timothy.

Exhibits marked on the Management's side :

Ext. M1A book containing the proceedings of the domestic enquiry held against Shri Timothy.

Ext. M1—(u) Series 5 in number. Five paper books containing the documents marked in the enquiry report of the enquiry etc.

नई दिल्ली, 18 जनवरी, 1990

का.ग्रा. 383.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक आफ सौराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में औद्योगिक अधिकरण (केन्द्रीय) अहमदाबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 जनवरी 1990 को प्राप्त हुआ था।

New Delhi, the 18th January, 1990

S.O. 383.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby published the following award of the Industrial Tribunal (Central) Ahmedabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of Saurashtra and their workmen, which was received by the Central Government on 17th January, 1990.

Ex. 46

BEFORE SHRI G. S. BAROT, INDUSTRIAL TRIBUNAL
(CENTRAL) AT AHMEDABAD

Reference (ITC) No. 15 of 1980

ADJUDICATION

BETWEEN

The State Bank of Saurashtra, Bhavnagar.

AND

The workmen employed under it.

In the matter of termination of service of Shri Kalotra Motibhai N., Sub-Staff, with effect from 20th April, 1978

APPEARANCES :

Shri M. J. Sheth—for the State Bank of Saurashtra.
Shri T. R. Mishra—for the workman.

AWARD

The Central Government, in exercise of the powers conferred by Section 7A and clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 ("the Act" to be brief), constituted an Industrial Tribunal with Shri R. C. Israni as its Presiding Officer and referred the dispute bet-

ween the employers in relation to the management of the State Bank of Saurashtra, Bhavnagar, and their workmen in respect of the matter specified in the Schedule annexed to the order of reference, viz.:—

“Whether the action of the management of State Bank of Saurashtra, Bhavnagar, in terminating the services of Shri Kalotra Motibhai Narayanbhai sub-staff with effect from 20th April, 1978 is justified? If not, to what relief is the workman concerned entitled?”

Subsequently, the matter was transferred to the undersigned under appropriate orders of the Government.

2. The facts leading to the present reference may be briefly stated. Shri M. N. Kalotra (“the workman concerned” in brief) was employed by the State Bank of Saurashtra (“the Bank” to be brief) from time to time as temporary Peon/ Godown Chokidar, for specific periods during 1977 and 1978. His last appointment was for 6 days viz. from 15th April, 1978 to 20th April, 1978. It is the contention of the workman concerned that he should have been absorbed on a permanent basis but instead he has been terminated, which is illegal and improper. According to him, no retrenchment compensation as provided under Section 25F has been paid to him and therefore also termination of his service would be illegal. The workman concerned has, therefore, prayed that he should be directed to be reinstated in service with full back wages and continuity of service. However, it is contended on behalf of the Bank that the workman concerned was being employed on purely temporary basis for short periods for specific vacancies and that no illegality has been committed by the Bank and the workman concerned is not entitled to any relief.

3. Both the sides have produced certain documents and some oral evidence has also been led.

4. Shri T. R. Mishra, the learned advocate appearing for the workman concerned, has argued in the first place that the services of the workman concerned have been terminated in contravention of Section 25F of the Act inasmuch as retrenchment compensation as provided in Section 25F has not been paid. In order to appreciate this contention, we have to refer to the provisions of Section 25F read with Section 25B which are as under:—

“25F. Conditions precedent to retrenchment of workman—

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Government or such authority as may be specified by the appropriate Government by notification in the Official Gazette.”

“25B. Definition of continuous service.—For the purposes of this Chapter—

- (1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman.
- (2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

- (a) for a period of one year, if the workman, during a period of twelve calendar months preceding

the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

- (i) one hundred and ninety days in the case of a workman employed below ground in mine; and
- (ii) two hundred and forty days, in any other case.”

* * *

It will be seen from the above that in order to attract the provisions of Sec. 25F regarding notice and compensation, the workman whose services are terminated should have worked for not less than 240 days during a period of twelve calendar months preceding the date of termination. Now, the last employment of the workman concerned was, admittedly, for a period of 6 days from 15th April, 1978 to 20th April, 1978. So, even if his services are treated to have been terminated on 20th April, 1978, during the period of twelve calendar months preceding that date, he has worked for a total of 215 days. It is true that in all he has worked for 275 days but as seen above, for the purposes of Sec. 25F read with Sec. 25B, number of days actually worked are not the total number of days but the days worked during the preceding twelve calendar months. It is, therefore, clear that the provisions of Section 25F are not attracted in the present case and the workman concerned was, therefore, not entitled to notice and compensation as provided therein. Therefore, termination of his service would not be illegal on that count.

5. Shri Mishra has then drew my attention to Para 508(c) and Para 522(4) of the Sastry Award and contended that it was obligatory for the Bank to have given 14 days' notice before termination of his service, and as such a notice has not been given, the termination would be illegal and void. However, Shri M. J. Sheth, the learned advocate appearing for the Bank, has contended that the Sastry Award does not apply to the Bank viz. State Bank of Saurashtra, inasmuch as the name of the Bank does not appear in Schedule I to the notification dated 5th January, 1952 issued by the Central Government in this behalf. From the said Schedule, it does appear that the name of the Bank is not included therein. It is not shown as to how the said award would apply to the workman concerned. This contention cannot therefore be upheld.

6. Shri Mishra has then argued that the workman concerned was interviewed by the Staff Selection Committee and was selected. He should, therefore, have been permanently absorbed on the establishment of the Bank. Looking to the record of the case, however, it appears that whilst interviewing the candidates, they were given the Grades A+, A, B+, B, B— and C. The number of vacancies at the time was 110 whereas the number of candidates upto Grade B+ was 118. Therefore, permanent appointments of Peons/Chowkidars were given out of those who obtained grade from A+ to B+. It appears from the list, Ex. 7(2) that the workman concerned got Grade B— and he stood at No. 258 in the list. He could not, therefore, be appointed on permanent post. However, thereafter, a circular dated 10th January, 1977 was issued along with which a list of the candidates wait listed was enclosed. It was directed in that circular that all temporary appointments for howsoever short a duration should be made from that list only. In this list, the name of the workman concerned stood at No. 161. It is under the directions of this circular that the workman concerned appears to have been given appointments for short periods from time to time. But that does not give any right to the workman concerned for permanent appointment. It was pointed out on behalf of the Bank that the same point came up for decision before the Hon'ble High Court of Gujarat in Special Civil Application No. 1268 of 1982. After considering the same circular dated 10th January, 1977 referred above, it was observed by the Hon'ble High Court that the circular clearly mentions that while permanent appointment will be made by the Head Office only, temporary appointment on leave vacancy or pending posting/arrival of the substitute for those who may have retired/resigned/transferred, may be made by the branch after obtaining the approval of the Head Office from the wait-listed candidates. It was further observed that such temporary appointment does not confer any right to the petitioners or any other person included in the select list to be absorbed on permanent basis. However, Shri Mishra argued that the workman concerned was not a party in the above matter before the High Court and so that decision does not apply to him.

I am unable to agree with Shri Mishra. Even if the workman concerned was not a party in that matter, I am required to take note of the observations made by the Hon'ble High Court in this very matter on the very point.

7. For the reasons stated above, it is held that termination of the service of the workman concerned with effect from 20th April, 1978 was perfectly justified and he is not entitled to any relief. No order as to costs.

Sd./-

Secretary,

Ahmedabad, 27th December, 1989.

Sd/-

[No. L-12012/211/79-D.II(A)]

का.आ. 384.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, स्टेट बैंक आफ सौराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण (केन्द्रीय) अहमदाबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 जनवरी 1990 को प्राप्त हुआ था।

S.O. 384.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal (Central), Ahmedabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of Saurashtra and their workmen, which was received by the Central Government on 17-1-90.

ANNEXURE

BEFORE SHRI G. S. BAROT, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT AHMEDABAD

Reference (ITC) No. 4 of 1980

ADJUDICATION

BETWEEN

State Bank of Saurashtra, Bhavnagar.

AND

Their workmen.

In the matter of dismissal of Shri I. G. Devani, clerk-cum-cashier, etc.

APPEARANCES:

Shri D. C. Gandhi, Advocate for the bank; and Shri H. K. Rathod, Advocate for the workmen.

AWARD

The industrial dispute between State Bank of Saurashtra, Bhavnagar, hereinafter referred to as 'the Bank' and their workmen was referred for adjudication to the Central Government Industrial Tribunal consisting of Shri R. C. Israni u/s. 10(1)(d) of the Industrial Disputes Act, 1947, by Government of India, Ministry of Labour, New Delhi's Order No. L-12012/129/79-D.II.A dated 7-6-1980 which has stood transferred to me by appropriate orders issued by the competent authorities. The single demand referred for adjudication is with regard to the action of the management of State Bank of Saurashtra, Bhavnagar in relation to their Kutiyana Branch (Gujarat) in dismissing Shri I. G. Devani, Clerk-cum-Cashier from services under order No. STAFF/GOT/CON/319 dated 21-1-1977 is justified or not. If not, to what relief is the workman concerned entitled to?

2 On behalf of the concerned workman, statement of claim has been filed at ex. 2 wherein it has been stated that he was working in the Kutiyana branch of the State Bank

of Saurashtra as clerk-cum-cashier; that he was suspended by order dt. 21-10-67; that he was served with charge sheet dt. 24-9-73 and then dismissed from service by order dt. 21-1-77; that he had filed appeal against the said dismissal order but the same was also dismissed by order dt. 22-6-77; that the Bank had filed two criminal cases against him but in both the cases he was acquitted; that the appeals filed by the State Government were also dismissed by the High Court; that after the appeals were dismissed by the High Court he was served with a charge sheet and after holding an inquiry he was dismissed; that this action of the Bank is illegal and improper; that in the inquiry held against him he was not allowed to examine his witnesses and he was also not allowed to cross examine the witnesses examined by the Bank; that the charges levelled against him were not proved; that the findings are perverse. He has therefore prayed that the dismissal order passed against him should be set aside and he should be reinstated with full back wages and continuity of job.

3. The Bank has filed its written statement at ex. 4 wherein it has been contended that the concerned workman was working at the relevant time as a cashier-in-charge; that on 16-10-67 a cash shortage to the tune of Rs. 25,000 was detected which was in the custody of the manager and the cashier; that a criminal case was filed being Sessions Case No. '11/68' in that behalf; that the Sessions Court had acquitted the workman concerned giving him benefit of doubt; that even the appeal filed against the said acquittal was also dismissed by the High Court; that another case for Rs. 5,000 was also filed against the workman concerned and there also the Sessions Court in Case No. 20/80 had acquitted the workman concerned giving him the benefit of doubt; that an appeal filed against the said acquittal order was also dismissed by the High Court; that after this, the workman concerned was charge sheeted for being negligent in his duties and also on other charges, a legal and proper inquiry was held thereafter wherein the workmen concerned was allowed to produce his evidence both oral as well as documentary; that on the documentary evidence produced it clearly appears that the concerned workman was guilty of the misconduct charged against him; that he was given opportunity to bring his witness and also allowed to cross examine the witnesses examined by the Bank; that he was also allowed to represent his case through his representative. The allegation that the findings are perverse were categorically denied; that the legal points which were raised by the concerned workman were without any substance and therefore they were rejected. The allegation that the Bank should have examined the manager Shri Pandya has no substance. If the concerned workman wanted to examine Shri Pandya as his witness he could have done so; that considering the misconducts which were alleged against the workmen concerned and the same having been proved he was dismissed. Considering the above facts and circumstances the demand deserves to be rejected.

4. The Bank has produced the inquiry record and other relevant documentary evidence. The workman concerned has examined himself in support of his say at ex. 13; while the Bank has relied on documentary evidence. The workman concerned in his evidence has stated that he was working as clerk-cum-cashier in the bank; that in all he served the Bank for five years. He was suspended on 17-10-67 and ultimately he was dismissed on 21-1-77; that criminal case was filed against him for the cash shortage of Rs. 25,000 and in another case filed against him he was charged that he withdrew Rs. 5,000 from some body's savings bank account; that he was acquitted in both the criminal cases; that appeals against the acquittal orders were also filed but the same were dismissed by the High Court; that thereafter the Bank had started domestic inquiry against him as well as Shri Pandya. Lastly he has stated that after his dismissal in spite of his trying for securing job, he has not been able to secure any job for him. He has admitted in his cross-examination that he had not applied anywhere for job by making application since the year 1977. He had orally tried for a job.

5. I have heard Shri H. K. Rathod for the workman concerned and Shri M. J. Sheeth for the Bank. As far as the facts are concerned they are more or less undisputed. It is a fact that shortage of Rs. 25,000 was found in cash which was in the custody of the workman concerned as well as

the manager. It is also a fact that the workman concerned had withdrawn Rs. 5,000 from the account of one of the customers of the Bank & misappropriated the same. It may be noted that as far as Rs. 25,000 are concerned the same were reimbursed to the Bank by the insurance Co. as the Bank had taken insurance in that behalf. As far as Rs. 5,000 are concerned, the client from whose account the same were withdrawn by the concerned workman, the Bank had to pay the same. It is true that the Bank had filed criminal cases against the workman concerned and in the sessions cases stated above, the workman concerned was given the benefit of doubt and was acquitted. It is also true that the appeals filed against the acquittal of the workman concerned were not admitted by the Hon'ble High Court. As far as the inquiry proceedings are concerned during the course of arguments, though in the statement of claim the inquiry was challenged, Shri Rathod had admitted the inquiry and therefore it was not necessary to discuss about the inquiry being vitiated or otherwise. However, Shri H. K. Rathod for the workman argued that the findings given by the inquiry officer were perverse so to say they are not borne out on the evidence on record. Shri Rathod then argued that even if it is believed that the charges against the workman are proved, this is a fit case where the workman concerned should be given relief u/s. 11A of the I.D. Act, when he had a clean record. Shri Rathod also argued that the inquiry held against the workman concerned itself is bad in as much as the Bank should not have held any inquiry on the same charges for which the workman concerned was prosecuted before the criminal court and acquitted.

6. As against this, Shri Sheth for the Bank however argued that the criminal courts did not acquit the workman concerned honourably but the workman concerned was given the benefit of doubt. Though it is true that the High Court did not admit the appeals against the acquittal order passed in favour of the workman concerned, there is no bar in holding departmental inquiry in a case like this where the concerned workman was charge sheeted for being negligent in his duties as a cashier. As far as the inquiry record is concerned Shri Sheth read out relevant portion from the inquiry record and argued that there is nothing which can be assailed as far as the legality of the inquiry is concerned. Shri Sheth also argued that principles of natural justice were duly complied with during the course of the inquiry and lastly argued that the charge levelled against the workman concerned having been found to be proved he was dismissed. Shri Sheth also argued that the findings given by the inquiry officer are also in order and they are all passed on the evidence recorded at the inquiry and finally it was argued by Shri Sheth that this is not a fit case where the benefit u/s. 11A of the Act should be given in as much as the workman concerned was a cashier in the Bank which has to deal with money of public and also inspire confidence in public for bank's dealings.

7. In the light of the above I will now consider the arguments advanced by both the sides. As regards the first argument of Shri Rathod that there should not have been departmental inquiry held against the workman when he was acquitted by the criminal court for the same offence. In support of his contention Shri Rathod relied on a decision reported in 1984 Lab. I.C. 1552. It was a case where an employee of the railway was acquitted on merits and not on technical grounds. Then departmental proceedings on the same facts and for substantially the same charges were started and the employee was removed from service. It was held by the M. P. High Court that the departmental proceedings could not have been held to be proper and order of removal was liable to be quashed. The second decision relied on by Shri Rathod was in the case of Abdul Hakim v/s. D.S.P. reported in 19 G.L.R. p. 210. This is a case decided by the Hon'ble Gujarat High Court wherein it has been held as under :—

"Of course this proposition that acquittal in a criminal court does not operate as an absolute bar to a departmental proceedings is now firmly entrenched and needs no reiteration. The heart of the problem, however, lies elsewhere. It needs to be emphasised that none of the aforesaid cases, not one of them supports the much wider proposition

canvassed on behalf of the State that on the same material and on re-appreciation of the same total evidence, without anything more, it is open to a disciplinary authority to take just the contrary view to the judicial view taken by the Court of law and notwithstanding the order of acquittal, to record a finding of guilt against the delinquent and to dismiss him from service. The proposition is an astounding proposition for if it were to be upheld even the finding of acquittal rendered by the Supreme Court may be disregarded and a disciplinary authority, say, a Deputy Superintendent of Police, may take the view that it is open to him to believe the evidence of witnesses not believed by the competent Court and to act on the same evidence and to hold a person guilty notwithstanding that the criminal court came to the conclusion that on very same evidence the accused was entitled to acquittal and the decision was confirmed by even the High Court and the Supreme Court. If this were accepted as a true position of law, it would wholly undermine respect for the judicial administration. Nay it would even promote disrespect for the institution of law and justice. What then is the true position of law if an acquittal does not operate as an absolute bar to the initiation of a disciplinary proceeding and at the same time the disciplinary authority cannot hold the Government servant concerned guilty on the same evidence and the same material? The true position would appear to lie within the hinterland between the two extremes. A Departmental proceeding cannot be initiated as a matter of course or without anything more when the court of law has acquitted the delinquent. It can be undertaken only if special circumstances are shown to exist....."

8. Another decision relied on by Shri Rathod was reported in 85 Lab. I.C. 1095. It is also a case decided by the Hon'ble Gujarat High Court wherein criminal prosecution on charges of rash and negligent driving was there. Then in the departmental inquiry the charge of gross negligence in discharge of duties was alleged. There was acquittal on merits in criminal case after appreciation of evidence. Thereafter the departmental authority came to a conclusion of negligence without any evidence. It was therefore held that the departmental inquiry could not have been continued at all. Shri M. J. Sheth relied on a decision reported in 84 Lab. I.C. 179. It is a decision rendered by Hon'ble Supreme Court wherein the employee was acquitted in a criminal case and the question which fell for consideration was whether the inquiry can be continued. Their Lordships in the said case were pleased to hold as under :—

"The question whether or not the departmental inquiry pending against the employee involved in the criminal case should be continued even after his acquittal in criminal case is a matter which is to be decided by the department after considering the nature of the findings given by the criminal court. Normally where the accused is acquitted honourably and completely exonerated of the charges it is not expedient to continue a departmental inquiry on the very same charges or grounds or evidence. However merely because the accused is acquitted, the power of the authority concerned to continue the departmental inquiry is not taken away nor is its discretion in any way fettered."

9. I have considered the above decisions and in my opinion the principle which has been laid down is that in a case when there is acquittal on merits there should not be any departmental proceeding on the same charges. Very recently there is also one decision of the Hon'ble Gujarat High Court decided by Acting Chief Justice Shri R. C. Mankad wherein this very question has been considered. His Lordship has also considered the case of Abdul Hakim (supra). Now if we consider the case of Abdul Hakim His Lordship Mr. Justice Thakkar (as he then was), was pleased to observe that it would not be desirable to exhaustively enumerate the circumstances but the illustrative or typical situation can be by and large conceived.

"For instance (1) the Court might have acquitted the accused on the ground of failure to obtain the requisite sanction or (2) the acquittal may be grounded on the circumstance that there was no sufficient evidence by reason of the fact that the prosecution witnesses had not remained present and the request made for adjournment to enable the prosecution to examine witnesses was not granted. (3). The charge was defective and trial was vitiated on account of prejudice occasioned to the accused. (4) When the case is that of circumstantial evidence and acquittal is rendered by evincing benefit of doubt on the ground that the prosecution has failed to establish its case beyond reasonable doubt. (5) When some of the witnesses who implicate the accused are believed but others are not believed and in view of conflict of evidence acquittal is ordered on the doctrine of benefit of doubt.

Now considering the facts and circumstances of this case it is very evident that the workman concerned who was in charge of the cash on a sudden checking by the authorities it was found that the cash to the tune of Rs. 25,000 was short. The documentary evidence viz., ex. 25 clearly shows that there was deficit found in the cash to the tune of Rs. 25,000 while checking the entire balance. This is the incident of 16-10-67. This is again proved by another document ex. 28 which is the main cash book wherein this amount of Rs. 25,000 has to be taken in the Suspense Account. This fact of shortage of Rs. 25,000 is proved. The criminal court though it is true, acquitted the workman concerned but he was acquitted not on merits but he was given the benefit of doubt. The learned Sessions Judge was pleased to observe that the prosecution has failed to prove the charge against the accused beyond reasonable doubt and hence the accused is entitled to the benefit of doubt. It is true that the appeal against the acquittal was not admitted. Similarly for the another amount of Rs. 5,000 the charge is also proved from the documentary evidence itself. Ex. 31 is the withdrawal slip. It appears that there was one savings bank account No. 280 in the name of Jayavanti Jayantilal. It appears that it was a joint account and on 20-9-67 Rs. 5,000 appears to have been withdrawn. There the scroll no. is in the hand writing of the workman concerned and the money were paid which was accepted by the workman concerned himself. As far as this amount is concerned the account holder Jayavanti had filed suit against the Bank and a decree of Rs. 5,000 was passed against the Bank. Thus the Bank had to pay the same amount. Here also it is clearly proved that it was the workman concerned who had taken away this money and misappropriated the same. Thus, both the amount Rs. 25,000 and Rs. 5,000 were taken away. The first amount of Rs. 25,000 was recovered from the insurance co. as there was a general insurance in that behalf while the other amount of Rs. 5,000 was borne by the bank. Now, reverting once again to the decisions relied on by Shri Rathod that on the same evidence there should not have been departmental proceedings held. I do not think that the said argument has any substance. Even their Lordship Mr. Justice M. P. Thakkar has clearly laid down that it can only be in the case of acquittal on merits and where it is on the same set of evidence. In the instant case the charge before the Sessions Court and one in the departmental inquiry were different. In the departmental inquiry it was gross negligence. Thus it cannot be said that the charges were the same before both the forums. At the same time it is also to be noted that in a case when acquittal has been rendered extending the benefit of doubt it cannot be put on par with one as acquittal on merits. It is also to be borne in mind that this is a case where the workman concerned was a cashier in the Bank. The bank is an institution where public money are deposited and if a person who has to look after the cash work himself makes such misconducts or goes to the extent of withdrawing money from some body's account and misappropriate it, nobody would have confidence in the banking activity. This is a very dangerous thing and when a cashier himself does this it cannot be tolerated. The Bank cannot have any confidence in such a man. Here in the instant case the charges on both the counts appear to have been proved and therefore in my opinion this is

not a case where it can be said that departmental proceedings should not have been conducted against the workman concerned.

10. As far as the second argument of Shri Rathod about the findings being perverse are concerned I have gone through the inquiry record and in my view this argument has also no merit. The inquiry officers are not legal persons and it may be that one may not find the said findings as are given by legal persons but what we have to see is whether the charges levelled against the workman concerned are borne out by the evidence on record. In this case there is enough documentary evidence which has been discussed above which go to show that the charges are proved.

11. The last argument advanced by Shri Rathod was that if the Tribunal comes to a conclusion that the charges are proved against the workman concerned then the workman concerned should be extended the benefit of S. 11-A of the Act and award some lesser punishment rather than render the punishment of dismissal from service. It is true that the newly inserted S. 11-A of the Act confers powers on the Labour Courts and Tribunals to substitute the sentence of discharge or dismissal by a lesser punishment if it is satisfied that the order of discharge or dismissal was not justified. For this the Tribunal has to see whether the facts and circumstances in a given case are such which would prima facie show that the order of dismissal passed against the delinquent is not justified. But it would not be so where prima facie it appears the delinquent has deliberately done a mischief and has also succeeded in putting the same through. In a case where it appears that there is dishonesty the benefit u/s. 11A cannot be extended to such a delinquent. This view of mine has been supported by a decision of Hon'ble Gujarat High Court rendered by Mr. Justice Qureshi in a case reported in 1983 G.L.H. 326 :—

"Ordinarily the Court would have sympathy for an employee who is going to lose his employment and thereby his means of maintenance would disappear. But in a case wherein the employee is guilty of an offence involving moral turpitude or a deliberate act of dishonesty, the Court's sympathy would be misplaced and may result in injustice done to the employer. No employer can be saddled with a responsibility to retain an employee who is proved to be corrupt or indulging in dishonest practices especially in an institution like a Bank which has to deal with depositors' money. Showing sympathy in a case like this could possibly be construed as condoning corruption or even possibly be regarded as indirectly encouraging dishonesty."

Shri Sheth also drew my attention to a case of Municipal Corporation of City of Ahmedabad v/s. Hussainmiya Chandmiya reported in 1987(54) F.L.R. p. 100. It is a case decided by the Division Bench of Hon'ble Gujarat High Court who had occasion to consider the scope of S. 11A of the Act. Their Lordships were pleased to observe as under :

"Under S. 11-A, the Labour Court can exercise jurisdiction only if the termination of service is found to be 'not justified' but the order of termination cannot be substituted by a lesser punishment only on the basis of misplaced sympathy. A workman of the type before us has forfeited his right for sympathy because he has duped less fortunate persons of their hard-earned money. Lip sympathy or expression of regret is no substitute for what he pocketed by practising fraud on innocent victims. The Labour Court had clearly transgressed the discretionary jurisdiction vested in it by Section 11-A of the Act by ordering reinstatement of the workman. We are, therefore, of the opinion that the order passed by the Labour Court is clearly arbitrary and whimsical and cannot be sustained."

Now if we consider the facts in the present case and the observations made by Their Lordships of the Gujarat High Court the present case is not such where the benefit u/s. 11A can be extended. It clearly appears in this case that the workman concerned was in the habit of indulging in Varli-

Matka and he had lost lots of money in that. That inspired him to draw money from the Bank's cash and ultimately the Bank had to lose Rs. 25,000. Of course the same were reimbursed from the general insurance. In the second case this very person i.e. the workman concerned withdrew Rs. 5,000 from somebody's account and used for his own purpose. This is gross misconduct on the part of the person like the cashier in the Bank and if the cashier himself does this, that would adversely affect the prestige of the Bank and the Bank under no circumstances would retain such a person which would harm its prestige. In my opinion therefore the charges in the instant case are proved from documentary evidence. This is not a fit case where the benefit u/s. 11-A should be extended to the workman concerned.

12. I may here once more refer to the position of law as is available in Chapter XIX—Disciplinary Action and Procedure there—Under para 19 of the above Procedure even after a person is acquitted it would be open to the Bank to proceed against the acquitted person under the provisions set out under clauses 19.11 and 19.12 relating to discharge. Thus the Bank was perfectly within its right to hold the departmental inquiry even after the acquittal by the criminal courts.

13. In the result, for reasons stated in the foregoing paragraphs, the demand made in the present reference is rejected with no order as to costs.

Ahmedabad :

Dated : 27th December, 1989.

Sd/-

G. S. BAROT, Presiding Officer.

[No. L-12012/129/79 D.II(A)]

का.आ. 385.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण (केन्द्रीय), अहमदाबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17 जनवरी 1990 का प्राप्त हुआ था।

S.O 385.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby published the following award of the Industrial Tribunal (Central), Ahmedabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 17th January, 1990.

ANNEXURE

BEFORE SHRI G. S. BAROT, PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL (CENTRAL) AT

AHMEDABAD

Reference (ITO) No. 26 of 1984

ADJUDICATION

BETWEEN

State Bank of India, Ahmedabad.

AND

The workmen employed under it.

In the matter of termination of services of Shri V. J. Thakkar,
Watchman

APPEARANCES :

Shri Bhushan Oza, Advocate -for the Bank.

Shri T. R. Mishra, Advocate—for the workman.

AWARD

This industrial dispute between the Management of State Bank of India and the workmen employed under it has been

referred to me for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India, Ministry of Labour & Rehabilitation's No. L-12012/276/83-D. II(A) dated 28th February, 1984.

2. The dispute relates to a single demand of the workmen which is as under :—

"Whether the action of the management of State Bank of India, Ahmedabad in relation to their Punis Ashram Branch, Maninagar, Ahmedabad in terminating the services of Shri V. J. Thakkar, Watchman, in October, 1982 and not considering him for further employment is justified? If not, to what relief is the workman concerned entitled?"

3. Ex. 4 is the statement of claim filed by the workman concerned wherein he has stated that he was a badli watchman of the State Bank of India, Maninagar Branch, Ahmedabad; that he work for 29 days during the year 1979 and 8 days during the year 1980 and 99 days during the year 1981 at Maninagar Branch as Badli Watchman; that the Bank has been perpetually exploiting the workmen; that the workman concerned was senior to other Badli Watchman; that the Bank used to employ other junior Badli Watchman on the post of Watchman; that in spite of several representations by the workman concerned he has not been given the post of Badli Watchman; that the Bank has neglected the well known principle of "Last come, first go". He has, therefore, prayed that the Bank may be directed to employ the applicant as and when the post falls vacant according to the seniority of Badli Watchman and he further directed to pay him wages for the period for which junior Watchmen were employed instead of him.

4. The Bank has filed written statement at Ex. 9 wherein it has been contended that it is not true that the workman concerned was appointed as alleged by him; that the allegation of perpetual exploitation is also denied. It has also been denied that the workman concerned was senior to other badli watchman. The allegation of victimisation is also denied. It was, however, submitted by the Bank that the workman concerned had worked at Maninagar Branch (Ahmedabad) as a casual workman in temporary/badli capacity for the period shown below :—

1979	34 days
1980	40 "
1981	94 "
1982	66 "

In all he has worked for 234-1/2 days. It was further contended that the workman concerned was engaged temporarily on different occasions for specific period and as soon as the said period was over his employment came to an end by efflux of time; that no disciplinary action was taken against him and, therefore, there was no necessity to conduct any inquiry or to give him any notice; that the action of the Bank in the circumstances stated above was perfectly legal and proper and no violation of principles of natural justice have been made; that the workman concerned had not been in employment for a continuous period of 240 days in 12 calendar months as contemplated under the provisions of the Industrial Disputes Act, 1947 and as such he was not in continuous service for a period of one year and hence he was not eligible for the benefit under Section 25F of the Act; that the service conditions of a Bank employee are governed by Sastry Award and as per paragraph 522(4) of the Sastry Award the services of any employee other than permanent employee or a probationer can be terminated; that the workman concerned was neither permanent employee nor a probationer and hence his services were liable to be terminated at the discretion of the Bank; that it was also not obligatory on the part of the Bank to give any notice to the workman concerned; that the workman concerned was appointed by a separate appointment letters for a specific period in the leave vacancy of permanent watchman as mentioned in the said appointment letters. Thus his appointment as a Badli Watchman was purely as a stop gap arrangement only and he was, therefore, not entitled to the benefits of the provisions under Section 25 and 25H of the Act. It was also submitted that for the recruitment of permanent watchmen it is the policy of the Bank to recruit only ex-servicemen to a permanent post and as the workman concerned was not an ex-serviceman, he was not covered under the eligibility criteria prescribed by the Bank; that when the

general recruitment for the permanent posts of Bank's Watchmen was held in the year 1981, as per the policy of the Bank in vogue at the relevant time, the names of the candidates were called for from the employment exchange and the candidates sponsored by the employment exchange were called for interviews; that the name of the workman concerned was not sponsored by the employment exchange; that in the instant case due to some special circumstances and obligations required to be fulfilled by the Bank, the Bank had to engage the workman concerned on the purely temporary basis and the workman concerned was employed for a specific period as a casual workman; that as soon as the Bank finds out duly eligible and qualified persons, the Bank used to appoint such qualified persons; that the workman concerned herein was not qualified for the post of a Watchman inasmuch as he was also not an ex-serviceman; under these circumstances the workman concerned was not given any further temporary/badli work of a Watchman; that the action of the Bank was quite legal and proper.

5. The Bank has produced several documentary evidence besides examining Branch Manager at the relevant time at Ex. 52. The workman concerned has examined himself at Ex. 49 wherein he has stated that in the year 1979 he was appointed as a watchman-cum-messenger. At that time there was a strike going on in the Bank; that as the Manager was changed, he had not been able to procure any certificate. Thereafter in the year 1979 he was engaged as a watchman-cum-messenger and he worked for 29 days for which he had obtained a certificate. Thereafter in the year 1980 he worked at Maninagar as well as Rakhial and secured work for 170 days. He has also produced certificate to that effect. In 1981 he worked in all for 81 days and in the year 1982 for 66 days. He has then stated that he has passed VIIth Vernacular and his birth date is 14th December, 1949 and in 1982 he was of 33 years. After 1982 he has not secured any job in the Bank. He has also stated that he has not committed any misconduct. He knows how to use rifle. He has also stated that his juniors are continued in the service and also made permanent even though they were not ex-servicemen. In spite of his request to give him job, he has not been given the job and at present he is without any job. He has also stated that though he is unemployed, he has not tried to secure job because his case is going on in the Court. In his cross-examination he has very clearly admitted that he was given badli work on those days for which a permanent workman was on leave and as soon as the permanent workman in whose place he was given work resumed duty, he was relieved. He then very categorically admitted that in any of the years he has not completed 240 days of work. He also admitted that he used to be given the job as per the exigencies and then relieved when the said exigency was over. He also admitted that he was not an ex-serviceman. He also admitted that though his name was registered with the employment exchange when he got badli work in the Bank, it was not on the strength of employment exchange card but he was called by the Manager and given the work. He also admitted that just opposite Maninagar Branch of the Bank he runs a small tea shop (lari) in the name of his wife.

6. The Bank has examined one Dashrathlal who was the Branch Manager at the relevant time. In his statement he has stated that the workman concerned was working as a temporary/badli workman. He had engaged the workman concerned; that in the said branch there were three permanent watchmen and whenever any of the three watchmen used to be on leave or if it was a weekly holiday, then a watchman used to be engaged for that period only in the leave vacancy. As per the directions of the Reserve Bank of India enough security should have been maintained on the branch for all the 24 hours. Since 1982 4 Watchmen are being engaged. After 1982 the workman concerned was not given any badli work. He has also very clearly stated that as the workman was working just near the Bank, he was being called and given work whenever exigency arose. As far as permanent posting is concerned, the witness has clearly stated that the qualifications required that he should be an ex-serviceman and age only 24 years and he should be non-matric. The witness has been cross-examined at length wherein he has very categorically stated that as per the directions of the Reserve Bank there should be a watchman for all the 24 hours by way of security and, therefore, on any day when suddenly such a requirement arises, the Manager has to arrange for enough security. The Bank maintains one register wherein it is being

shown as to who had attended badli and in whose place. Ordinarily temporary workman has to come through employment exchange but it is not possible for all the times as stated in the circumstances above when suddenly requirement arises.

7. I have heard Shri T. R. Mishra for the workman concerned and Shri Bhushan Oza for the Bank.

8. Shri Mishra, however, pointed from the statement of claim that the workman concerned used to be given work for particular number of days and then relieved. It was, therefore, prayed that he should be appointed Badli Watchman on the basis of his seniority inasmuch as the Bank has continued some other Badli Watchmen who are junior to him. Even in the argument the workman concerned has been referred to as the Badli Watchman. Shri Mishra, however, drew my attention to para 508(3) of the Sastry Award for the Banks wherein the employees have been classified as permanent employee, employees as probationers, temporary employees and part-time employees. He also drew my attention to clause (c) wherein the expressions have been defined. That the temporary employee has been defined as an employee who has been appointed for a limited period for work which is of an essentially temporary nature or it is employment temporarily as an additional employee in connection with that temporary increase in work of a permanent nature. Shri Mishra then drew my attention to para 522(4) which says that the services of any employee other than a permanent employee or probationer may be terminated and he may leave service after 14 days' notice. If such an employee leaves service without giving such notice, he shall be liable for a week's pay (including all allowances). It was also argued by Shri Mishra that the Bank intentionally did not allow the workman concerned to complete 90 days. In support Shri Mishra has relied upon the decision reported in 1985 Supreme Court Cases Volume IV p. 201. It is the case decided by the Hon'ble Supreme Court wherein the management has struck off the name of the workman from the roll though he has worked continuously for more than 240 days and a year including Sundays and other paid holidays. As argued by Shri Mishra the action of the Bank in not continuing the workman concerned is illegal and he should be reinstated with full back wages. It was argued by Shri Mishra that in the Sastry Award there is no mention of a Badli Workman.

9. As against that Shri Bhushan Oza appearing for the Bank has very strenuously argued that the workman concerned was not a temporary workman but he was only a badli workman which is very apparent on the face of the record.

10. If we look to the pleadings and the evidence of the workman himself, it is absolutely clear that he was a badli watchman. Even the certificates given to him by the Bank which have been produced on record clearly show that he had worked for the Bank only as a badli watchman and not as a temporary watchman. Certificates have been produced at Exs. 24 to 32 wherein he has been shown as temporary/badli watchman. Shri Oza also pointed out that the workman concerned has not worked for 240 days in any year which is also clear from the above certificate. Even Ex. 27 dated 29th November, 1982 shows that the workmen knew very well that he had worked only for 255 days in all in various years which means that he did not work for 240 days in any year. Shri Oza then submitted that in view of the fact that the workman concerned was a badli watchman, there was no question of putting him on a permanent post and confirming him on the said post. Even in the evidence the workman concerned has himself admitted that he has not completed 240 days in a year. As admitted by him he has not been punished for any misconduct which means that there was no necessity to hold any inquiry before terminating his services. In view of this legal position the provisions of Section 25-F or H are not attracted. The workman has also admitted that he was not the ex-serviceman while the Bank's witness Ex. 52 clearly shows that certain qualifications have been prescribed for the post of Watchman. The evidence also shows that the workman concerned was appointed as Watchman only by way of stop gap arrangement which means badli only. According to Shri Mishra the workman concerned was a temporary workman inasmuch as paragraph 208 nowhere prescribes the category of badli employee and, therefore, the workman concerned cannot be said to be a badli watchman. According to Shri Mishra the workman concerned was a temporary workman and as per paragraph 522(4) his services cannot be

terminated in the way in which it is done by the Bank without following the required procedure.

11. I have considered these contentions of Shri Mishra but if we scrutinise the evidence both oral as well as documentary, it clearly appears that the workman concerned was not a temporary workman. He was also not a permanent workman or the probationer or a part-time. In view of the above, prima facie one would be inclined to agree with Shri Mishra that the Bank cannot employ a person if one is not given any one of these four categories. But here the evidence of the Branch Manager clearly shows how and under what circumstances the workman was given work on certain days. The Branch Manager has clearly stated that as per the directions of the Reserve Bank which are binding to all the banks enough security should be provided during the night and at times it so happens that a permanent watchman suddenly proceeds on leave and remains absent on one or the other ground. Now as per the directions of the Reserve Bank enough security should be provided and the Bank should not be allowed to remain without proper security and under these circumstances the workman concerned was given work only when some permanent watchman used to be on leave. The more and very convincing reason is that the workman concerned runs a tea shop (dary) just opposite the Bank and he was readily available at any moment when such an exigency arose. Moreover, it is also clear that he has not been able to secure work for 240 days in any of these years. It is also very important to be borne in mind that throughout the statement of claim of the workman has described him as a badli watchman. Even in the written statement he has been referred to as such. Even in the evidence of the workman concerned he himself has very categorically admitted that he used to be given badli work on those days on which a permanent employee was absent and when the said permanent employee used to resume work, he used to be relieved. He thereafter further admitted that the Bank used to call him only in exigency and then he used to be relieved. Even the Manager also in so many words stated that the workman concerned used to be given work as a badli watchman when permanent watchman used to be on leave. Thus the evidence both oral as well as documentary clearly goes to show that the workman was given work only as a badli and not as a temporary. If the work to the workman concerned was given as a temporary watchman, it was only for a particular period and if that was so, paragraph 522(4) would apply to him but here the evidence clearly shows that the workman concerned was neither a permanent workman nor a probationer nor a temporary nor part-time worker. Even the certificates on which the workman concerned relies and which were given to him by the Bank Authorities describes him as a badli watchman and even the evidence also supports the said version. In my opinion, therefore, workman concerned was a badli watchman. It is, however, true that the Sastry Award prescribes only 4 categories of watchmen where badli does not find its place. But when the workman concerned does not fall in any of the categories and the record shows that only in certain exigencies the workman concerned used to be given work which on the face of it appears to be a badli work, there is no reason to disbelieve the Bank when it says that the workman concerned was a badli workman. Not only this but as stated above, throughout the proceedings the workman concerned himself including his evidence has admitted that he was a badli watchman. In my opinion, therefore, the workman concerned was undoubtedly a badli watchman and he used to be given work only on those days when a permanent watchman was absent and on resumption of duties of a permanent watchman he was relieved which was perfectly legal and proper. The workman concerned in this case has no other right under the provisions of the Industrial Disputes Act. It is also clear that he was not an ex-serviceman nor he was sponsored by employment exchange and the Bank's rules and regulations required that one should come through employment exchange and should also fulfill the necessary qualifications which admittedly the workman concerned did not possess. In my opinion, therefore, even on merits the workman concerned has no case. It is also to be noted that at Ex. 61 the workman concerned has moved an amendment application wherein it has been stated that the workman concerned has referred himself as a badli watchman but there is no provision in the Sastry Award for a badli watchman. It was also further requested to make one further amendment inasmuch as the workman through mistake or slip or accident has failed to pray for the reliefs of reinstatement with back

wages in his statement of claim. In view of the above, I do not think that the application even if allowed had any fruitful meaning inasmuch as in my opinion the evidence shows the workman concerned to be a badli watchman and, therefore, not entitled to any of the relief claimed and further that in view of rejecting the demand, the question of any reinstatement with full back wages does not arise.

12. For the reasons stated above, the demand made as such is rejected with no order as to costs.

Ahmedabad,

Dated, 29th December, 1989.

[No. L-12012/276/83-D II(A)]
G. S. BAROT, Presiding Officer.

नई दिल्ली, 24 जनवरी 1990,

का.आ. 386.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुमरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-1-90 को प्राप्त हुआ था।

New Delhi, the 24th January, 1990

S.O. 386.—In pursuance the Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby published the following award of the Central Government Industrial Tribunal New Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 15-1-90.

ANNEXURE

BEFORE SHRI G. S. KALRA : PRESIDING
OFFICER : CENTRAL GOVT. INDUSTRIAL
TRIBUNAL : NEW DELHI

I. D. No. 40/87

In the matter of dispute between :

Shri Surendra Kumar, R/o 41, Beeru Kunwa,
Meerut City-250002.

Versus

The Regional Manager, State Bank of India,
Region I, Garh Road, Meerut.

APPEARANCES :

Shri R. P. Sharma for the workman.

Shri S. L. Garg for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/279/86-D. II (A) dated 11th May, 1987 has referred the following industrial dispute to this Tribunal for adjudication :

“Whether the action of the Regional Manager, State Bank of India, Garh Road, Meerut in terminating the services of Shri Surendra Kumar, Clerk-cum-Typist of Sakauti

Tanda Branch vide order dated 30-7-85 is justified? If not, to what relief the workman concerned is entitled?"

2. The long and short of this case are that the claimant workman was appointed as clerk-cum-typist vide letter dated 6-11-1984 (Ex. M-1) and he joined service w.e.f. 7-11-1984. The performance of the workman having been found not satisfactory during the initial period of probation of six months, the probation period of the workman was extended by another 3 months, vide letter dated 25-4-85 (Ex. W-12). However before the completion of the extended period of deputation, the services of the workman were terminated vide order dated 30-7-1985 (Ex. W-3).

3. The workman has assailed the termination of his services on the grounds that he was not issued any appointment letter specifying period of probation and, therefore, he cannot be treated as on probation and should be deemed to be a permanent employee; that no diary notes were maintained with regard to the workman, therefore, there was no sufficient material before the controlling authority to consider as to whether the period of probation should be extended or he should be confirmed, that the order extending the period of probation was issued by the branch manager whereas the period of probation could be extended by the Regional Manager and as such the workman should have been deemed to have been confirmed, that the workman was appointed on 7-11-84 and as per extended period of probation he should have worked upto 7-8-85 and his services could not be terminated before the expiry of the extended period of probation, that the workman continuously worked for more than one year and therefore, at the time of termination of his services he was entitled to benefit of section 25-F of the I. D. Act and since the employers had not complied with the provisions of section 25-F of the I. D. Act, the termination of the services of the workman is void, that persons junior to the workman were working at the time of his termination of services, that the Management appointed new clerk-cum-typist after termination of the services of the workman and the workman was not given any offer of employment as required under section 25-H of the I. D. Act, that the charges against the workman if proved were for minor misconduct and as such his services could not be terminated and he could be let off with minor punishment, that no enquiry was held into any alleged misconduct against the workman nor any charge was proved against him, that the confirmation of service of the workman was subject to satisfactory report and there was no adverse report from the police against him, that consent as required under para 95 of the Sastry Award was not obtained from the workman and that the termination of the workman was malafide because of the insistence of the branch manager that the workman could not work in Hindi and the insistence of the workman to work in Hindi as per the policy of the bank which caused the displeasure of the Branch Manager.

4. The Management has controverted all the claims and allegations of the workman and asserted that the services of the workman were terminated in accordance with his services rules and terms of employment and in accordance with paragraph 522-(1) of the Sastry Award, and is legal, valid and justified.

5. At the outset, it may be observed that the workman is guilty of making false allegations and tall claims. His allegation that he was not issued any appointment letter specifying period of probation is falsified by the letter of appointment dated 6-11-84 Ex. M1 which has to be read with the form 'D' Ex. M2 furnished by the workman himself, in compliance with the conditions stipulated in Ex. M-1. In para 2(ix) it was clearly specified that the services of the workman may be terminated at any time during the period of probation without assigning any reason. Now in form D. Ex. M-2 which has been completed and signed by the workman, it has been clearly specified that the period of probation was six months. Thus the allegation made by the workman is false. Again, it has been stated by the workman that he was posted at the branch Scoti Tanda solely for the reason that it was a Hindi branch and the workman knew Hindi well and on this promise has alleged malafides on the part of the branch Manager because of the insistence of the Branch Manager that the workman could not work in Hindi and the insistence of the workman not to work in Hindi as per policy of the bank. This allegation is a clear after thought, because it is nowhere mentioned in the letter of appointment Ex. M1 that the workman was being appointed as a Hindi Typist-cum-Clerk. Even in the form D Ex. M2 filled up by the workman himself he has shown his appointment as clerk-cum-typist and there is no mention that he was appointed as a Hindi clerk-cum-typist. The workman has himself stated in his rejoinder that the Scoti Tanda Branch was declared as Hindi branch by the order dated 13-5-1985. When the workman appeared as WW1 he categorically denied the suggestion that the Scoti Tanda Branch was declared as Hindi branch only w.e.f. July, 85 and volunteered that it was declared as Hindi branch even before his appointment. It appears that he had forgotten as to what he had stated in his rejoinder and when confronted with letter dated 13-5-85 Ex. W-1 produced by himself, he admitted that it was officially declared as Hindi Branch vide letter dated 13-5-1985. Thus it is proved that the workman has made a false claim that he had been appointed as Scoti Tanda Branch solely for the reason that it was a Hindi Branch. Consequently the allegation of malafides on the part of the Manager on the basis of user of Hindi are also proved false. In his cross-examination as WW1, the workman has stated that he did not file any written complaint against the Manager and he had also not mentioned the fact of oral complaint in his affidavit and that the Manager had never given orders in writing that he should work in English and not in Hindi. At the same time he admitted that an office order was issued in March, 85 that all staff members of the branch should work in Hindi. While there was no necessity at all to maintain diary notes with regard to the workman, the Management has specifically

explained that period of probation of the workman was extended by the controlling authority on the basis of the progress report Annexure M-3 which shows that the workman had remained on casual leave for 5 days out of which one was without application and that he was lethargic discourteous and his handwriting was not so clean. The letter dated 20-4-85 Ex. M4 shows that the approval for extension of the probation period was conveyed by the Regional Manager and, therefore, the allegation of the workman that the order for extension had been issued by the Branch Manager without any power is also repelled. The order of extension dated 25-4-85 Ex. W-12 specifies the various short comings of the workman and he was asked to eradicate those shortcomings within the period of extended probation otherwise his services will have to be terminated. What has been pointed out in this letter are only short comings and these cannot be taken as to cast any stigma on the workman. Hence there was no necessity of serving any charge sheet on the workman or to hold any enquiry, nor was any report from the police required for the termination of the services of the workman during the probation period. Even the allegation of the workman that consent as required under para 495 of Sastry Award had not been obtained, is without any substance because para 495 of the Sastry Award has since been amended as per para 21.18 of the Desai Award and no written consent of the employee is required for extending period of probation. It is further to be noted that the workman was appointed on 7-11-1984 which is after the amendment to the I. D. Act which came into force w.e.f. 18-11-1984. The case of this workman is, therefore, covered by Section 2(oo)(ii) of the I. D. Act according to which "termination of the services of the workman as a result of non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein" has been excluded from the term "retrenchment". In the order of appointment of the workman it has been clearly specified that his services are liable to be terminated at any time during the period of probation without assigning any reason. As the services of the workman have been terminated within the period of probation, his termination does not amount to retrenchment in terms of section 2(oo). Hence the workman is not entitled to the protection of section 25-F of the I. D. Act. As regards the contention of the workman that his services could not be terminated before he had completed the extended period of probation upto 6-8-85, it is repelled by the authority C. M. Jitender Kumar Versus the Management of Bharat Earth Movers Ltd. and another 1985 Lab. I. C. 1833 (Karnataka High Court) wherein it has been held that there is no compulsion in law that the probationer must be retained during the last date of the period of probation even if non-fulfilment of the conditions of probation stands established even earlier and their fulfilment is found impossible during the rest of the period. Consequently the services of a probationer could be terminated even prior to the expiry of the period of probation. Ex. W-3 shows that the Management had sent a cheque covering one month's pay for the notice period to the workman alongwith the order of his termination Ex. W-3 and

consequently there was compliance with the provisions of section 522(1) of the Sastry Award. As it is a case of termination during the period of probation, the provisions of Section 25-G and Section 25-H of the I. D. Act are not attracted.

6. In view of the discussion made above, the action of the Management is held to be legal, valid and justified and the workman is not entitled to any relief. This reference stands disposed of accordingly.

27th December, 1989.

Further it is ordered that the requisite number of copies of this award may be forwarded to the Central Government for necessary action at their end.

G. S. KALRA, Presiding Officer

[No. 1-12012/279/86-DII(A)]

S. C. SHARMA, Desk Officer

नई दिल्ली, 17 जनवरी, 1990

का.आ. 387.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसर्गण में केन्द्रीय सरकार एयर इंडिया के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 17th January, 1990

S.O. 387.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Air India and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2 BOMBAY
PRESENT :

Shri P. D. APSNANKAR, Presiding Officer.

Reference No. CGIT-24 of 1989

PARTIES :

Employers in relation to the management of Air India

and

Their workman.

APPEARANCES :

For the employers—1. Shri M. M. Verma,
2. Shri R. Dayal, 3. Ms. Anjali Seth Advocates.

For the workmen—Shri J. B. Ghagadmal, (Workman in person)

INDUSTRY : Air Lines.

STATE : Maharashtra.

Bombay, the 7th December, 1989

AWARD

The Central Government by their Order No. L-11012/20/88-D.III(B) dated 24-2-1989 have referred the following industrial dispute for adjudication to this Tribunal under Section 10(1)(d) of the Industrial Disputes Act :—

“Whether the action of the management of Air India Bombay in dismissing Shri J. B. Ghagadmal, Loader (staff No. 40083), vide their order No. SCZ|EST|JBG dated 11-5-84 is justified ? If not, what relief is the workman entitled to ?”

2. The case of the Air India as disclosed from their written statement (Ex. 3), in short, is thus :—

The workman Shri J. B. Ghagadmal was employed in the service of the Air India in November 1965. He remained absent without permission for 43 days during the period 1-4-1982 to 31-3-1983. Hence he was chargesheeted by the letter dated 2-9-1983. The workman by his explanation dated 22-11-1983 accepted the charge and expressed regret for the misconduct. However, thereafter an enquiry was held against him. The Enquiry Committee submitted its report to the Competent authority on 8-2-1984. The Competent authority accepted the findings of the Enquiry Committee, and awarded the punishment of dismissal from service to the said workman by the order dated 5-5-1984. The competent authority, while awarding the punishment of dismissal, had taken into consideration the gravity of the misconduct and the unsatisfactory past record of the workman. The workman had accepted the charge of misconduct before the Enquiry Committee, and had stated that due to his family difficulties he had remained unauthorisedly absent.

3. The Air India further contended thus :—

The domestic enquiry held against the workman, was held properly, and the rules of Natural justice were duly followed. The workman was given sufficient opportunity to defend himself. The workman had cross-examined the witnesses examined on behalf of Air India. The past record of the workman was bad, which was thus :—

(a) In 1973, the workman was chargesheeted for sleeping on duty, refusing to work and behaving rudely, for which, punishment of suspension on loss of pay for 4 days and reduction by two stages in the time scale of pay for 2 years was awarded.

(b) In 1977 he remained absent for 39 days during the period October 1976 to September 1977, for which a warning letter was issued.

(c) In 1979, the warning letter was issued for his behaviour in excited and combative manner in Holy Spirit Hospital.

(d) In 1980, he was chargesheeted for having remained absent for 40 days for which the punishment of reduction in basic salary by one stage for a period of one year, was awarded.

(ii) The workman was given ample opportunity to improve his conduct, but despite this, the workman continued to indulge in committing repeated misconduct. As such the competent authority was left with no other alternative, but to dismiss the workman from service. The Air India, therefore, lastly prayed that its action in dismissing the workman was just and proper, and its action be upheld.

4. The said workman did not file any statement of claim as such. He filed an application dated 7-4-1989 (Ex. 2) wherein he stated that the papers regarding his dismissal, enquiry etc. are in Industrial Tribunal No. 1, Bombay, and that they be called here. He further stated in that application that he is a poor person, and has a large family to maintain, that he is still unemployed, and as such he may be reinstated in service. He made a statement before this Tribunal that his said application dated 7-4-1989 (Ex. 2) be treated as his statement of claim in this case. Accordingly that application has been treated as his statement of claim.

5. Issues framed at Ex.4 are :—

(1) Whether the action of the management of Air India, Bombay in dismissing Shri J. B. Ghagadmal, Loader (Staff No. 40083) vide their order No. SCZ|EST|JBC dated 11-5-1984 is justified ?

(2) If not, that relief is the workman entitled to ?

(3) What Award ?

6. My findings on the above said Issues are :—

(1) Yes.

(2) Does not survive.

(3) As per final order.

REASONS

Issues Nos. 1 and 2

7. As noted above, the workman did not file the statement of claim as such. By the application dated 7-4-1969 he had only prayed that he be reinstated in service. He did not raise any particular contention. As such the contentions raised by the Air India in their Written statement have gone unchallenged.

8. The workman was examined at Ex.5. In that evidence also he only stated that he has to maintain his wife and two small children & that he was wrongly dismissed from service and that he be reinstated in service with full back wages and continuity of service. In his cross-examination he admitted that warnings used to be given to him for his late attendance, and his pay was reduced as a penalty for his

absence from duty. He also admitted in his cross-examination that he had participated in the enquiry held against him, and that he had admitted charges levelled against him in the enquiry proceedings.

9. The Offg. Dy. Industrial Relations Manager, Shri S. N. Murthy, filed his affidavit in support of the contentions of the Air India. The statements made by him in his affidavit practically went unchallenged. The only suggestion made to him in his cross-examination by the workman was that he had made false and incorrect statements in his affidavit, and that the Air India unlawfully and wrongly dismissed him from service, and the management witness denied all the suggestions. The fairness of the enquiry held against the workman has not been challenged by him. It is seen from the record that he was given full opportunity to defend himself in the enquiry held against him and the rules of natural justice were duly followed. Remaining absent without leave is one of the misconducts under Regulation 42(vi) of the Air India Employees' Service Regulations. The charge against the workman was that he remained absent without permission for 43 days during the year 1982-83. He admitted the charge before the Enquiry Committee, and also by his earlier statement dated 22-11-1983. Thus, the charge of misconduct was duly proved against the workman. As stated in the written statement of Air India, the workman had remained absent without permission for 39 days during the years 1976-77, for which only a warning letter was issued to him. Again, during the year 1980 he remained absent without permission for 40 days for which the punishment of reduction in basic salary by one stage for a period of one year was imposed upon him. In 1973 he was chargesheeted for sleeping on duty, refusing to work and behaving rudely, for which the punishment of suspension on loss of pay for 4 days and reduction by two stages in the time scale of pay for 2 years was awarded. In 1979, again a warning letter was issued for his behaviour in excited and combative manner in Holy Spirit Hospital. In spite of these previous warnings and other punishments as above, the said workman had failed to improve his conduct, and remained absent without permission for 43 days during 1982-83. As such, the action of the management of Air India in dismissing the workman cannot said to be unjust and improper. It was just and proper taking into consideration the previous bad record of the workman. Issue No. 1 is therefore found in the affirmative. As such the workman is not entitled to any relief. Issue No. 2 is found accordingly.

Issue No. 3

10. Hence the following award is passed.

AWARD

The action of the management of Air India, Bombay, in dismissing Shri J. B. Ghagadmal, Loader from service by Order dated 11-5-1984 is just and proper, and as such the said workman is not entitled to any relief.

11. The parties to bear their own costs of this Reference.

P. D. APSHANKAR, Presiding Officer
[No. L-11612 20/88-D 11(B)]

नई दिल्ली, 19 जनवरी, 1990

का.आ. 388.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मॉर्मुगाओ पोर्ट ट्रस्ट, मॉर्मुगाओ के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-1-1990 को प्राप्त हुआ था।

New Delhi, the 19th January, 1990

S.O. 388.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mormugao Port Trust, Mormugao and their workmen, which was received by the Central Government on 16-1-1990.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2

PRESENT :

Shri P. D. Apshankar, Presiding Officer.

Reference No. CGIT-2/65 of 1985

PARTIES :

Employers in relation to the Management of Mormugao Port Trust, Mormugao.

AND

Their workmen

APPEARANCES :

For the Employers.—Shri A. B. Gadgil, Dy. Secretary.

For the Workmen.—No appearance.

INDUSTRY : Ports and Docks STATE : Goa
Bombay, dated the 8th January, 1990

AWARD

The Central Government by their order No. L-36011(2)/81-D.IV(A) dated 5-6-1981 have referred the following industrial dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 :—

“Whether the demand of the Mormugao Port and Dock (Non-Ministerial) Workers' Union for payment of Transport allowance to the employees transferred from workshop department of Mormugao Harbour under the Chief Mechanical Engineer for maintenance of cranes etc. is justified? If so, to what relief are the concerned workmen entitled and from what date?”

2. The Mormugao Port & Dock (Non-Ministerial) Workers' Union filed their statement of claim (Ex. 2) in support of their claim. The Board of Trustees of Port of Mormugao by their written statement (Ex. 3) contested the demand of the Union. The necessary

evidence was led in the matter, and my learned predecessor passed an Award dated 29-3-1982 in favour of the workmen, in Reference No. CGIT-2/5 of 1981.

3. Against that order the Board of Trustees of Port of Mormugao filed a writ Petition in the Court of the Judicial Commissioner, Goa, Daman and Diu, at Panaji. By consent of both the parties, the said Award was set aside by the High Court of Bombay, Panaji Bench, and the case was remanded back to this Tribunal for making a fresh award.

4. Thereafter while the case was at the stage of recording evidence, the Dy. Secretary of the Mormugao Port Trust filed an application dated 16-5-1989 that the All India Port and Dock Workers Federation to which the Union in question is affiliated, reached at an understanding with the Officers of the Ministry of Surface Transport on 21-4-1989, and that in terms of Para No. 17 of that Memorandum of understanding, it has been agreed that each employee would be paid transport reimbursement of Rs. 30 per month for three years i.e. from 1-1-1989 to 31-12-1991 and at the rate of Rs. 50 per month from 1-1-1982 to 31-12-1992, and as such there is no justification to pursue the present matter and that the case be disposed of. A copy of the said Memo. of understanding dated 21-4-1989 is at Ex. 11.

5. The Deputy Secretary of the Mormugao Port Trust filed a further application dated 28-9-1989 (Ex. 12) that the Wage Settlement was arrived on 12-6-1989 between the representatives of the managements of Port Trusts and the representatives of the five Federations of the Unions, and that as per item 15 of the above settlement the Transport Allowance was made payable thus :—

15.1 Where the Port Trust Dock Labour Board transport is not being provided/availed for attending the place of duty from his residence or where any payment on this account is not being made, an employee will be reimbursed expenses towards transport @ Rs. 30 p.m. from 1st January 1989 to 31st December, 1991 and Rs. 50 p.m. from 1st January, 1992 to 31st December 1992.

15.2 Where the Port Trust Dock Labour Board Transport is being provided/availed for attending the place of duty from his residence or where any payment on this account is being made, the concerned employees will be given an option either to continue the same facility/payment or to accept transport reimbursement specified in para 15.1. The option shall be exercised within three months from the date of issue of Government's approval of the Settlement. The option once exercised shall be final."

A copy of the Wage Settlement dated 12-6-1989 is at Ex. 13.

6. The General Secretary of the said Union filed an application dated 28-9-1989 (Ex. 14) that in view of the said settlement, the Union was willing to withdraw the reference, and that the matter be disposed of accordingly. As per the terms of the said Memo. of understanding and Wage Settlement, the workmen are now getting the transport allowance. Therefore, the Award must be drawn in terms of the Memo. of Understanding dated 21-4-1989, and the Wage Settlement dated 12-6-1989, Award accordingly.

The parties to bear their own costs of this Reference.

Sd -

P. D. APSHANKAR, Presiding Officer
[No. L-36011 2/81-D. IV (A)] [R (Misc.)]

का.आ. 389—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, गुजरात मिनेरल्स डवलपमेंट कॉर्पोरेशन, अहमदाबाद के प्रबंधन के सम्मिलित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, अहमदाबाद के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 17-1-1990 को प्राप्त हुआ था।

S.O. 389.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Gujarat Minerals Development Corporation, Ahmedabad and their workmen, which was received by the Central Government on 17-1-1990.

BEFORE SHRI G.S. BAROT, B. COM. LL.B.,
PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT
AHMEDABAD

Reference (ITC) No. 28 of 1984

ADJUDICATION

BETWEEN

Gujarat Minerals Development Corporation,
Ahmedabad—First Party.

AND

Their workmen—Second Party.

In the matter of employees' demand to convert daily-rated Helpers to monthly-rated Helpers in different mining projects in Gujarat.

APPEARANCES :

Shri M. J. Sheth, Advocate for the First Party; &
Shri Nihil Mehta, Advocate for the Second Party.

AWARD

This is a reference made by the Government of India, Ministry of Labour, constituting me as Presid-

ing Officer of the Industrial Tribunal with headquarters at Ahmedabad, in exercise of the powers conferred by Section 7A and clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947. The Reference is made by the Central Government Order No. L-29011 80/33-D.III(B) dated 23-4-84. The dispute which is referred to this Tribunal for adjudication is stated in the Schedule to the order of reference and it reads as under :

"Whether the demand of the workmen represented by Gujarat Mineral Development Corporation Employees Union, Ahmedabad in converting the daily-rated Helpers in different mining projects of Gujarat Mineral Development Corporation in Gujarat to monthly-rated staff is justified? If so, to what relief are the workmen concerned entitled?"

2. On behalf of Gujarat Mineral Development Corporation Employees' Union, hereinafter referred to as 'the union' statement of claim has been filed at ex. 10 wherein it has been stated that Gujarat Mineral Development Corporation Ltd., hereinafter referred to as 'the Corporation' has its separate mines/projects in Gujarat; that on the said mines certain workmen are engaged; that some workmen are monthly rated while others are daily rated, that without considering the seniority, certain workmen are made monthly rated from daily rated though their work is of similar nature; that mode of payment for both the categories is also different; that because of this policy being adopted by the Corporation those, who are daily rated have to suffer; that the policy adopted by the Corporation is very much against principles of natural justice; that, therefore, the same should be discontinued; that monthly rated workmen are given more benefits than daily rated workmen, that the nature of work is of a permanent nature; that these workmen are working for years together; that even their Provident Fund is deducted and other benefits like gratuity and leave are also extended to them. However, they are not being paid certain other benefits which are being given to other monthly rated workmen. It is, therefore, submitted that those who have completed 240 days as daily rated workmen should be converted into monthly rated workmen and be given all the benefits which are made available to monthly rated workmen. It is, therefore, demanded herein that all the daily rated workmen who have completed 240 days be converted into monthly rated workmen as per their seniority and be given all the benefits as stated above.

3. The Corporation has filed its written statement at ex. 17 contending inter alia that the reference made as such is not maintainable. The Corporation has denied the allegations made in the statement of claim that the daily rated workmen are doing the same type of work which monthly rated are doing. It is also denied that the Corporation has converted several daily rated as monthly rated according to their whims. It is also denied that some of the daily rated workmen are working for years. It was however admitted that the Corporation has in all seven mines/projects in Gujarat and there are two types of workmen working on the mines/projects, viz., daily rated and monthly rated. It was then submitted that all daily

rated workmen are unskilled workmen while the work of monthly rated workmen is of semiskilled, skilled or highly skilled type. It was hence submitted that working of both these categories is different; that as regards the policy of converting daily rated into monthly rated, there was a meeting held with the union on 25-26-5-1979 and as decided at the said meeting those who complete two years as daily rated workmen and whose work report is good should be made monthly rated on the posts which are approved by the Corporation. It was also submitted that all those daily rated workmen are being extended the benefit of wage revision as well as other benefits as per the agreements arrived at between the union and the Corporation from time to time.

4. The Corporation had also given one application ex. 45 for amending its written statement ex. 17 praying inter alia to allow the Corporation to state that on various mines/projects run by the Corporation daily rated workmen are working; that the provisions of Industrial Employment (Standing Orders) Act 1947 are applicable to them; that there are settlements entered into between the Corporation and the workmen working as daily rated on various projects wherein according to the Corporation there are certain conditions which show that till the expiry of the above said settlements the workmen have no right to make new demand which would increase the financial burden of the Corporation and therefore the workmen have no right to come forward with any demand in this behalf and the reference, therefore, is not maintainable. The said amendment application was heard and an order was passed on 30-6-1989 allowing the said amendment application. It is also the case of the Corporation now that there are several settlements arrived at between the Corporation and this very union in respect of several mines/projects: that the said settlements were to remain in force till 31-12-84. It was pointed out that the reference in question has been made by the Central Government on 23-4-1984 while the settlements were to remain in force till 31-12-84 that under the terms and conditions of the above settlements it was neither legal, just or proper for the union to put up any demand which would increase the financial burden of the Corporation. It was hence submitted that the demand made herein if considered in terms of money would tremendously increase the financial burden of the Corporation and therefore as per the terms of the above referred settlements the demand made is neither just nor proper and the same deserves to be dismissed.

5. I have heard Shri Nihil Mehta for the union and Shri M. J. Sheth for the Corporation.

6. In support of the case for the union Shri Mehta drew my attention to the demand made. He also pointed out from the statement of claim their demand and then contended that hundreds of workmen who are at present designated as daily rated workmen, though working for years together so to say 10/15 years or perhaps more, are even to-day designated as daily rated workmen only; that in the Corporation there is also another category of workmen which is known as monthly rated but the Corporation does not convert these daily rated workmen as monthly rated

in spite of the fact that such workmen are working for years together and that too the work which they are doing is also of a permanent nature. Shri Mehta also pointed out from the evidence on record that practically all the daily rated workmen are working for all the days on the mines and yet because they are designated as daily rated, they are not being extended the benefits which the monthly rated workmen are receiving. Shri Mehta also pointed out from the written statement of the Corporation that it is admitted that in this Corporation there are two categories of workmen, viz., daily rated and monthly rated. Shri Mehta also pointed out from the minutes of meeting between the union and the management held on 25/26-5-1979 and submitted that a policy decision has been taken in the above meeting wherein it was decided that those who have completed two years and whose work report is good would be regularised on the posts which have been approved by the Corporation. Now as argued by Shri Mehta it is not in dispute that the workmen on whose behalf the present demand is made have completed 10 years of service or more and that the work which they are doing is also of permanent nature. It was hence contended that in spite of these two conditions having been satisfied the Corporation does not make these people monthly rated and hence the present reference. Shri Mehta also pointed out from Ex. 46 that the Corporation has categories the daily rated workmen as unskilled, skilled and highly skilled etc. It appears to be the case of the Corporation that the Corporation does not make unskilled workmen as monthly rated workmen and the workmen who are working as helpers or mazdoors as they are unskilled workmen are not entitled to be made monthly rated. It was also argued by Shri Mehta that there should not be any discrimination between the two categories. Shri Mehta also pointed out that it was also not correct to say that those who are unskilled should not be made monthly rated.

7. As against this Shri Sheth for the Corporation argued in the first place that the reference made as such is not maintainable in as much as on the date on which the reference has been made, the settlement arrived at between the Corporation and this very union subsists; that under the said settlement there is one important stipulation that the union will not put forward any demand which has the effect of increasing its financial burden. Shri Sheth also pointed out that as far as the present reference is concerned there is no question of making any daily rated workmen permanent after completing of 240 days; are as much as such a demand has not been made Shri Sheth then very strenuously argued on the maintainability of the present reference and pointed out from the order passed on Ex. 45 dated 30-6-1989 wherein it has been contended that there are several settlements which exist on the date of reference and as per the conditions contained in the said settlement, the present reference would not be maintainable. Shri Sheth then pointed out from the various agreements/settlements exhs. 38, 39, 40 and even thereafter ex. 58/3 from which it clearly appear that the settlements in question were to remain in force till 31-12-1984. It is clear that it was agreed to between the parties that neither the union on behalf of the workers nor the workers working as daily rated will raise any demand for any in-

crease in wages or emoluments in any form involving financial burden to the Corporation till December, 1984. It is true that such a term is there in all the above settlements. It is also true that this is an agreement with this very union as far as some of the projects are concerned. The question, therefore is whether would it be legal and proper for the union to come forward with the demand made in the present reference? According to Shri Sheth even the demand to make daily rated workmen as monthly rated would definitely increase the financial burden on the Corporation and therefore the reference made as such would be not maintainable. Shri Sheth therefore argued that the settlement was to remain in force till 31-12-84 and because the reference has been made on 23-4-84 the reference could be not maintainable. According to Shri Sheth after the expiry of the settlement on 31-12-1984 another settlement with regard to the daily rated workmen have been entered into which are Exhs. 60/5 to 60/9 and they are to remain in force till 31-12-1989. As argued by Shri Sheth, these settlements as they have been entered into during the course of conciliation proceedings are binding to the parties. It was also argued by Shri Sheth that there is some sanctity attached to these settlements and when a period of operation has been laid down in the settlement itself the parties are bound to act accordingly. In this case, the settlements are in force till 31-12-89 and therefore till that date no demand can be agitated nor the workmen have any right to ask for an increase which ultimately affects the financial position of the Corporation.

8. In support of this preliminary contention reliance was placed by Shri Sheth on a decision reported in 1970-II L.L.J. p. 195. It is a case decided by the Bombay High Court where also a preliminary contention was taken like the one taken wherein Their Lordships were pleased to hold that as the period of operation of settlement was agreed to between the parties as five years and as the workmen had enjoyed higher benefits for two years under the terms of settlement, the same union was estopped from terminating the settlement as otherwise the management would not have agreed for such a settlement if it had been known to them that the settlement would remain in operation for one year. The other decision relied upon by Shri Sheth was reported in 1968-II L.L.J. p. 8. It is a case decided by Mysore High Court wherein also it was held that every settlement reached between the parties would continue to be binding upon the parties until one of the parties expresses his intention to terminate the settlement by a notice in writing to the other party. The plain intention of the legislature was to provide for a continuance of the settlement until such termination was manifested in the prescribed manner and that there should be no disturbance of Industrial peace until then.

9. I have considered this contention of Shri Sheth and I am of the view that it is by now well settled law that the preliminary issue which touches the root of the matter should normally be decided first. In the present case prima facie it appears that the date on which the present reference has been made the settlement was in force. Shri Sheth also pointed out that these settlements were made before the Conciliation Officers and therefore they have the binding effect

on all the workmen because it assumes the status of an award and when the demand made has been made before the expiry of the stipulated period in the settlement and when it increases the financial burden of the Corporation, such a demand cannot either be made or entertained.

10. Though Shri Sheth had argued the preliminary point, the matter was also argued on merits in as much as the matter being quite old and it being on its final stage it was agreed that the preliminary issue be decided along with the merits of the case.

11. As far as the preliminary contention of Shri Sheth is concerned though it is true that the demand made was made before the expiry of the settlement I do not think that the Tribunals should be so strict in adjudication of such clauses which would adversely affect the rights of the down trodden. It is at the same time true that if the demand made herein is granted, the Corporation will have to bear some extra financial burden and prima facie it would also be against clause 6 wherein it was agreed to between the parties not to raise any demand for increase in wages or emoluments, in any form which may involve the financial burden. On this question I am of the view that though the financial burden of the Corporation may increase it would not be either fair or just not to consider the demand of the workman to be made monthly rated even after working for 15 to 20 years continuously and being deprived of the benefits which are made available to their counterparts. I am also of the view that the demand made as such, if found to be otherwise genuine, even the increase in financial burden should not come in the way of allowing such a demand. In a fit case where it is felt that justice is required to be done, it is well settled law that Industrial Tribunals are not helpless. Tribunals have such powers to render social and economic justice to the down trodden. Tribunals should not become so technical. The Corporation has produced a statement ex. 60/11 which shows burden which would fall upon the Corporation if the demand is granted. The said settlement shows that the demand made if accepted would increase the financial burden of the Corporation to the tune of Rs. 1,68,81,600. The Corporation has also produced a list at ex. 60/10 which shows the number of workmen who are working as daily rated and the number of such daily rated workmen who have availed of the benefits under the said settlement. The first statement ex. 60/11 shows the increase of the burden to the tune of Rs. 1,68,81,600 which clearly shows that if the demand is granted the Corporation will have to pay more to the tune of the above amount. It, at the same time, shows that to this extent, the daily rated workmen, though they have put in more years of work and though they are entitled to be made monthly rated as they are working permanently and the nature of their work also being of a permanent nature, are deprived of their legitimate rights, even after a period of 15 to 20 years. The other ex. 60/10 also shows that out of the total number of daily rated workmen majority of the workmen are now receiving the benefits which could be said to be good but this also in my opinion shows that if several out of the total number of daily rated workmen are getting the benefits, why the few who are now left out should

not get the said benefits? As stated above the Industrial Adjudicator should not approach the problem of the down trodden with such technicalities, but should try to solve the problem keeping in view maintenance of industrial peace and production which is of utmost importance for the Nation. Even if it is decided that the reference made as such is not maintainable because it has been made before the expiry of the period of subsistence of the settlement it would unnecessarily put the poor workmen into trouble and agony. They will have to put up the demand; they will have to go to the Conciliator and after the failure the reference would be made to the Tribunal and as one knows very well the final result would also take years. In my opinion therefore though there is a technical point I do not think it worthwhile to reject the demand only on this purely technical ground. Secondly, demand if granted has the effect of increasing the financial burden of the Corporation as observed above but there also I do not think that the demand if otherwise is genuine should be thrown off on such similar technical grounds. In my view therefore the preliminary issue raised by Shri Sheth which was based on the above two grounds does not find favour with me and the same is hereby rejected. I, therefore, propose to deal with the question on its merits.

12. Now coming to the merits of the case it was contended by Shri Sheth on behalf of the Corporation that it is the practice in this Corporation as decided in the meeting of 25/26-5-79 to make those workmen monthly rated after completion of two years if their work report is good and if the post on which they are to be made monthly rated are approved by the Corporation.

13. Shri Sheth also drew my attention to various exhs. viz., 60/5, 60/6, 60/7, 59/8 and 60/9 which are also copies of the settlement arrived at for various mines project of the Corporation. The said settlements are entered into between the Corporation and the union and it clearly appears that again these settlements were to remain in force till 31-12-89. It was hence contended by Shri Sheth that the above settlements are in force to-day and as the same were arrived at before Conciliation Officer they are all binding to the parties as well as other members i.e. workmen. It was hence argued that when such is the position it is not necessary to enter into merits and the reference deserves to be rejected.

14. It was at the same time admitted by Shri Sheth that though it is true that these settlements have not been entered into between the Corporation and this very union but the settlements being before the Conciliation Officer are binding to all the workmen concerned and, therefore, they have to put forward their demand and thereafter the demands would be considered by the management and if found proper an agreement or settlement would also be arrived at. Shri Sheth also pointed out that the Corporation has made several people monthly rated as per the policy agreed to by the Corporation. Though it is true that the last settlement which was to remain in force upto 31-12-89 normally no demand could be made until the expiry of the said agreed period in the settlement. The last settlement which according to Shri Sheth is binding to the parties expires on 31-12-89. It is true that a similar demand has also been referred to

another Tribunal for adjudication wherein the demand is that the daily rated workmen should be made monthly rated. It was hence argued by Shri Sheth that the present demand as it has been referred to before the expiry of the period of operation of the settlement, the same should not be entertained which such a demand has been made to another Tribunal which is pending for adjudication. The other Tribunal should be allowed to adjudicate such a demand. I have considered both the contentions of Shri Sheth and in my opinion it would be an exercise in futility if it is considered in the broader aspect of the matter. The demand has been referred to on 23-4-84 and the matter is being finally decided in the end of December, 1989, i.e., after five years the matter would be finalised and the down trodden or the deserving class which is being exploited for years and are being deprived of their legitimate rights to receive the same benefits which their counterparts are receiving.

15. Secondly when the other Tribunal will decide the matter finally is also not certain. It may take year or two or even more and when in the instant case, a demand to make daily rated as monthly rated is referred to this Industrial Tribunal, I do not think why simply on too technical a ground the same should be thrown off.

16. Shri Sheth as far as merits of the case are concerned further drew my attention to the fact that as per the decision taken in the meeting of 25/26th May, 1989 the Corporation is implementing the decision and regularising the workmen from time to time on the approved posts. My attention was drawn to Ex. 43 which is a list showing the names of the workmen who have been regularised as monthly rated workmen. Thereafter by Ex. 63 the Corporation has converted some daily rated workmen into monthly rated and in this list number of workmen have been covered. Thus according to Shri Sheth the policy which was adopted by the Corporation with regard to the conversion of daily rated workmen into monthly rated is being implemented regularly at intervals. Even in the year 1989 October some 40 workmen have been converted from daily rated to monthly rated. However, Shri Sheth maintained that this has to be done only on the approved posts and as far as the workmen covered under the present reference are concerned, they have not been converted as monthly rated, so far, as they are unskilled workmen and also because there are no approved posts for them. It was also pointed out by Shri Sheth that this Union cannot put up the demand till the settlement is in force. However, the Union had given the notice of termination of settlement at Ex. 69 which shows clearly that the Union knew well that it cannot raise any demand. The Union also knows that there are two sets of workmen in the Corporation viz. daily rated and monthly rated and especially when they know that settlements are in existence with regard to daily rated workmen, they cannot put up any demands for them till the settlement subsists. It was also pointed out that settlements have been entered into for all the projects of the Corporation in Gujarat. It was also argued by Shri Sheth that those who are working as daily rated did not come automatically under the category of monthly rated in as much as approved posts are required to accommodate such daily rated as monthly rated. To appreciate these contentions of Shri Sheth it would be necessary to refer to the evidence

which is on record. First is Ex. 24 viz. Chandulal Jivaji. In his evidence this witness has stated that he is working with the Corporation for the last 10 years as a daily rated workman. He is being paid wages on 5th of every month; that there are other workmen also who are also working with him as daily rated; that amongst daily rated workmen several workmen have put in 10 to 15 years of service; that daily rated are not getting benefits like medical, L.T.C. and H.R.A. which are being given to the monthly rated workmen; that their provident fund is also deducted and they are also given gratuity; that daily rated workmen are getting work on all the days in a month and he has very clearly stated that there is not a single incident in the last 10 years that these persons have not been given work. In his cross-examination he has stated that several daily rated workmen have been transferred to other projects also. He has further stated that there are workmen working as Jamadars, Watchmen, Cooks who are working as daily rated. The second witness was at Ex. 56 viz. Takhtasing Nannu who has also deposed that he is working for the last about 10 years as a daily rated workman and gets his wages on 7th of every month; that his provident fund is also being deducted and he is entitled to gratuity. He is doing the same work as Blaster Helper which work is of a permanent nature; that there are other daily rated workmen working like him in this Corporation out of which 3 have been made monthly rated; that daily rated workmen are not getting the benefits of L.T.C., medical etc. They are also not getting project allowance and H.R.A.; that there are no fixed norms to convert daily rated into monthly rated and daily rated workmen are also transferred from one project to another; that the Corporation has converted safai jamadars who are unskilled workmen and working as daily rated to monthly rated; that there are nearly 500 to 600 daily rated workmen in the project in which he works. Then Ex. 66 is another witness named Vikramji Manekrai Thaker who is also the Secretary of the Union. He has stated that he is working for the last about 10 years in the Corporation. Initially he was a daily rated workman but after about two years he was made permanent. He also stated that there are settlements with regard to the daily rated workmen. He has, however, stated that even during the operation of the settlement some workmen have been made permanent. He, however, admitted that normally after two years this is being done. He also stated that daily rated are entitled to the benefits of gratuity. He has then stated that the workmen who have put in service for 15 to 20 years are still working as daily rated and they are being deprived of the other benefits like L.T.C., H.R.A. etc. which benefits are being extended to the monthly rated workmen; that daily rated workmen are working on various mines projects like Kadipani, Pandre, Ambaji, Rajpardi and Bhatiya; that on various projects as stated above, the Corporation has converted daily rated workmen into monthly rated. In the cross-examination this witness has admitted that on mines projects workmen in the category of unskilled, skilled and semi skilled are working and these categories exist both in daily rated as well as monthly rated. He also admitted that settlements with regard to daily rated and monthly rated have been entered into and further admitted that the Corporation has converted daily rated into monthly rated as stated in the said exhibit. That this witness has

been cross-examined at length as far as different settlements are concerned and he has stated that the benefits which the monthly rated are getting are not being extended to daily rated workmen. He has also admitted that if the demands made herein are granted, it would increase the financial burden of the Corporation.

As against that the Corporation has examined one Dineshkumar Ex. 75 who is working as an Assistant Mines Manager at Kadipani Project. He has also worked for the last 10 years with the Corporation. He has stated that in the Corporation there are 6 projects at Pandro, Bhatia, Naredi, Ambaji, Rajpardi and Kadipani. The Head Office is at Ahmedabad. That the policy regarding monthly rated is decided by the Head Office and monthly rated are being appointed by issuing advertisement and thereafter they are being selected by the Selection Committee while daily rated are selected locally by the Project Managers. He has also stated that the monthly rated workmen are getting H.R.A., project allowance, medical allowance etc. While daily rated do not get such benefits. They only get leave as per the Mines Act. As far as the question of converting daily rated into monthly rated is concerned it has been deposed to by the witness of the Union. This witness has stated that certain daily rated have been converted into monthly rated after they have passed the required examination and that too on the posts approved by the Corporation. In his cross-examination this witness has stated that those who have been converted from daily rated to monthly rated have been put as such on the approved posts and that too after having been satisfied about their qualifications. As far as daily rated are concerned, more or less they are Adivasis and residing in the local area itself. He has also admitted that monthly rated workmen are getting project allowance. He then lastly stated that he has not made any recommendations recommending certain daily rated to make them monthly rated. The last witness examined by the Corporation is at Ex. 77 he is one Mr. Pravin Chandra Patel who is the General Manager (Personnel & Administration and Purchase). This witness also deposed that there are 6 projects of this Corporation in Gujarat. At present Ambaji project is not working. Similarly Chotila Project is also not working. That in the project there are two categories of workmen working viz. daily rated and monthly rated. That the recruitment of daily rated is done at project level while for monthly rated it is done at Head Office; that monthly rated are given appointment on approved posts; that the Corporation has framed service rules for officers as well as for monthly rated workmen; that daily rated workmen are treated as unskilled manual labourers and they are recruited only locally from roundabout the project. This witness has also stated that in the Corporation there were two unions one is Kutch Jilla Shramiivi and the others is G.M.D.C. Employees' Union. He also stated that as far as monthly rated and daily rated workmen are concerned, there are settlements entered into with G.M.D.C. Union and from time to time such settlements used to be entered into with regard to service conditions or making daily rated as monthly rated. He was shown Ex. 38, 39 and 40, 41 and 42 which all bore his signatures. He was also shown Ex. 43 by which certain daily rated workmen were made monthly rated after completion of two years and their work being satis-

factory. He also stated that this was done only on approved posts. Speaking about Exs. 60/2 to 60/9 he has stated that these are settlements in respect of different projects to which he was a party. Exhs. 60/8 and 60/9 are settlements which have been entered into with Khanij Karmachari Sangh and Kutch Jilla Shramiivi Sangh. He finally stated that no appointments letters are given to daily rated workmen. This witness in his cross-examination has admitted that on the project it is the Project Manager who has decide how many daily rated workmen he required. But as far as monthly rated are concerned, it is the Corporation which decides such questions. As far as approved posts are concerned, categories like clerk, supervisors, officers, technicians, minemates, mine foreman, fitters, riggers, plant supervisors, chemists, drivers etc. are covered and for all these posts the strength is also approved by the Corporation. While on projects the strength is not fixed. He also admitted that there is a classification of categories like skilled, semiskilled and unskilled. In daily rated these are the three categories and according to him 95 per cent to 98 per cent persons are unskilled workmen. He also stated that after completion of two years for as skilled categories, workmen are converted into monthly rated if their work report is good and this also is being adopted till today. That in the category of skilled and semiskilled very few persons are working as daily rated. It is only in skilled category and on approved posts that monthly rated are working. As far as some individual cases are concerned like one of Megha Khema Ex. 50 who was working as safai kamdar he has explained that he was working as a daily rated safai kamdar who was then taken up as regular safai kamdar with effect from 1-5-1982. According to this witness safai kamdars and peons belong to semiskilled category. Canteen Boy is also covered under semiskilled while helper is under unskilled. He has admitted that Ex. 49 which is in respect of Mega Khema he has been shown as unskilled and yet as deposed by this witness he has been converted as monthly rated. When shown Ex. 46 he had admitted that even Peon and Helpers have been shown as unskilled and as per Ex. 43 Sweepers, Peons and Canteen Boys have been made monthly rated. He has also admitted that even in unskilled category if the Board i.e. Corporation approved the posts they are made monthly rated, as for example, Gardener, Safai Kamdars, Peons etc. However, he was unable to say when such a decision was taken by the Board. He has denied that the Corporation has agreed to make those who have completed 240 days to be made monthly rated. Speaking especially about one Mr. Rao who is working as a Canteen Boy at Rajpardi Project, he has stated that he does not know that he has been taken up as monthly rated now. Lastly, he has admitted that there is one reference pending before the Industrial Tribunal being Reference (ITC) No. 271 of 1987 at the instance of G.M.D.C. Employees' Union and so far, no settlement has been entered into in that behalf.

18. Examining now the genuineness of the demand contained herein in the light of the evidence recorded both oral as well as documentary it appears clearly that the Corporation though has admitted the policy of converting daily rated workmen as monthly rated only after completion of two years service and if their record is found to be good provided approved posts are there. It is also true that as per the decision taken in the meeting of 25/26-5-1989 the Corpora-

tion is converting daily rated into monthly rated as stated above. However, the fact remains that on all the projects which are working (and one or two which were working), daily rated workmen are working not for two years, five years or so but for more than 10 years and some for 15 to 20 years. It is also not in dispute that these workmen who have been working for quite long are not getting the same benefits which their counterparts are getting even though the nature of work done by both the categories viz. daily rated and monthly rated is the same. It has come in evidence that in this Corporation hundreds of workmen are working as daily rated on all the six projects, they are all working for years together and that too on the same work where their counterparts are designated as monthly rated. It is also an admitted fact that these daily rated are at a disadvantage as far as certain benefits are concerned viz. medical, L.T.C. etc. It may be true that initially one does not know for how much time the work which is undertaken will go on and, therefore, the policy of recruiting daily rated workmen can be said to be justified but under no circumstances it can be said to be justified when it has been found that the work which is presently done by the daily rated workmen is in all probabilities likely to continue for many more years to come and when for the last 15 to 20 years these daily rated workmen are doing the work without interruption, it would be in no way justified to say that even after all these years of regular and continuous service these workmen should be continued as daily rated and be deprived of the benefits which their counterparts are receiving. In view of this fact I am of the view that these daily rated workmen should be given the status of monthly rated and should also be given the other benefits which are being given to the monthly rated workmen.

19. It is true that so often the question of making daily rated workmen as monthly rated workmen was discussed between the management and the unions and settlements have been entered into. It is true that settlements should have some sanctity and during the operation of the settlement normally nothing other than what is agreed to should be done. In the instant case for daily rated workmen settlements are there which are put in operation till 31-12-1989. Thus till the end of 1989 if it is said so, the workmen who are daily rated workmen cannot come forward with any demand to make them monthly rated and to increase any financial burden on the Corporation. Legally it can be said to be true but this is a case where we are dealing with people who are coming from backward area and they are in a way downtrodden class. We have seen that there should be a limit to exploitation of such class. Though it is true that legally i.e. till 31-12-1989 nothing more than what has been agreed under the settlement could have been done by this class of employees but now we are in the end of December, 1989 and within few days this period is to be over. If these daily rated workmen want now to ask for their rights viz. to be made monthly rated, they have first to raise the demand and then go before the conciliation and then the required procedure has to be followed which will take considerable time and even thereafter one is not sure when their question would be finalised and they would be able to secure justice for them. In a case like this no strict technical view should be taken or is possible. After all industrial adjudicator has to deliver justice keeping in view

the socio economic problems of the workmen for whom the Acts have been enacted. It is also true that there is one reference which has been made to other Tribunal wherein the question of making daily rated as monthly rated has been referred but there also one is not sure when it would be finalised and ultimately the workmen would receive the benefits which have been denied to them for years. In my opinion, therefore, in spite of the above facts, this is a fit case where the demand to make daily rated as monthly rated should be considered at this stage and, therefore, as discussed above, the workmen concerned herein who are working as daily rated on various projects of the Corporation should be directed to be made monthly rated.

20. Coming now to the effect to be given to these workmen, I am of the view that legally it would not be just and proper to give the directions to the Corporation to make these workmen monthly rated before the date i.e. 31-12-1989 when the settlements in that behalf were in existence. But I am not inclined to agree with the Corporation when it was suggested that first of all the notice to terminate the settlements should have been given and after following the regular procedure the demands should have been raised, referred to the tribunal and the said demand be adjudicated upon. On the facts and circumstances stated above, their demand deserves to be adjudicated herein itself and I have after application of mind have also adjudicated and decided in their favour in as much as justice should be done to this class of persons even at this stage.

21. For the reasons stated above, the Gujarat Mineral Development Corporation is hereby directed to convert those daily rated workmen who have put in as on 31-12-1989, 10 years of service or more into monthly rated workmen with effect from 1-1-1990 and then be paid on par (in respects) with the monthly rated workmen now working with the Corporation on its different mines projects. As far as the question of making permanent from daily rated workmen is concerned, I have myself as an Industrial Tribunal have taken different views depending upon the facts and circumstances of each case and given suitable directions accordingly. In the case of Baroda Municipal Corporation directions were given to make daily rated workmen as monthly rated after completion of three years' service. Even in the case of Gujarat University employees similar directions were given. But in the case of Ahmedabad Municipal Corporation which is a bigger one exactly similar directions were not given but the Ahmedabad Municipal Corporation was directed to make those daily rated workmen permanent who have completed 900 days of work in five years and not less than 180 days in each year. Thus different standards depending upon the prevailing conditions and other factors requiring considerations have been adopted so far. As far as this Corporation is concerned (GMDC), in my view this being a vast concern, spread over whole of the Gujarat State and the nature of work done at various projects and conditions prevailing therein, I am glad that ends of justice would be met if the workmen working on different projects in this Corporation as daily rated workmen are converted into monthly rated workmen after completion of 10 years service if in these 10 years they have completed 1800 days and 180 days in each year. In my view this appears to be little harsh after such a long time but considering such an important factor

that these persons are normally recruited from roundabout areas and mostly from local areas and also considering the financial burden which would come upon the Corporation, the directions given herein above should be considered reasonable. It is, therefore, directed accordingly. The Corporation is also directed to pay the difference becoming payable to them because of the above directions alongwith the wages for the month of March, 1990 or latest by 30th April, 1990.

22. The Corporation is further directed to pay to the Union Rs. 2500/- (Rupees twenty five hundred by way of costs.

Ahmedabad.

Date : 30-12-1989.

G. S. BAROT, Presiding Officer

[No. L-29011/80/83-D. III(B)]

S. VENUGOPAL, Desk Officer

नई दिल्ली, 17 जनवरी, 1990

का.आ. 390.—उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उत्प्रवासी संरक्षी कार्यालय मद्रास में नियुक्त सहायक श्री आर. देसिंगराजन को दिनांक 17 और 18 जनवरी 1990 को उत्प्रवासी संरक्षी, मद्रास के सभी कार्य करने के लिए प्राधिकृत करती है।

[सं. ए.-22012(1)90-उत्प्र.]

ए.के. लुथरा, निदेशक

New Delhi, the 17th January, 1990

S.O. 390.—In exercise of the powers conferred by Section 5 of the Emigration Act, 1983 (31 of 1983), the Central Government hereby authorises Shri R. Desingrajan, Assistant in the office of Protector of Emigrants, Madras to perform all functions of Protector of Emigrants, Madras in the office of Protector of Emigrants, Madras on 17th January, 1990 and 18th January, 1990.

[No. A-22012/1/96-Emig.]

A. K. LUTHRA, Director

नई दिल्ली, 18 जनवरी, 1990

का.आ. 391.—केन्द्रीय सरकार राजभाषा (संघ) के शासकीय प्रयोजनों के लिए प्रयोग [नियम, 1976 के नियम 10 के उपनियम (4)] के अनुसरण में, कर्मचारी भविष्य निधि संगठन के उप प्रादेशिक कार्यालय, कालीकट को जो श्रम मंत्रालय के अधीन एक स्वायत्त निकाय है जिसके कर्मचारिवृन्द ने हिन्दी का कार्यमाध्यक ज्ञान अर्जित कर लिया है अधिसूचित करती है।

[सं. ई-11011/1/89-एम.एस.-3]

टीम जोशी, उप सचिव

New Delhi, the 18th January, 1990

S.O. 391.—In pursuance of sub-rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the Sub-Regional office, Calicut of the Employees' Provident Fund

Organisation, an autonomous body under the Ministry of Labour, the staff whereof have acquired the working knowledge of Hindi.

[No. E. 11011/1/89-SS. III]

TINOO JOSHI, Dy. Secy.

नई दिल्ली, 18 जनवरी, 1990

का.आ. 392.—उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उत्प्रवासी संरक्षी कार्यालय त्रिवेंद्रम में नियुक्त सहायक श्रीमती तेसी फ्रैंको को दिनांक 17 जनवरी 1990 से 19 जनवरी 1990 तक उत्प्रवासी संरक्षी, त्रिवेंद्रम के सभी कार्य करने के लिए प्राधिकृत करती है।

[संख्या ए-22012(1)90-उत्प्र.]

प्रदीप सिंह, अवर सचिव

New Delhi, the 18th January, 1990

S.O. 392.—In exercise of the powers conferred by Section 5 of the Emigration Act, 1983 (31 of 1983), the Central Government hereby authorises Smt. Tessy Franco, Assistant in the office of Protector of Emigrants, Trivandrum to perform all functions of Protector of Emigrants, Trivandrum in the office of Protector of Emigrants, Trivandrum from 17th January, 1990 to 19th January, 1990.

[No. A-22012/1/90-Emig.]

PRADEEP SINGH, Under Secy.

नई दिल्ली, 24 जनवरी, 1990

का.आ. 393.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पी. एण्ड टी डिपार्टमेंट असिस्टेंट इंजीनियर (टेलीफोन) अहमदाबाद के प्रबंधन के सम्बन्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, अहमदाबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-1-90 को प्राप्त हुआ था।

New Delhi, the 24th January, 1990

S.O. 393.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of P&T Deptt. Asstt. Divisional Engineer (Telephone) Ahmedabad and their workmen, which was received by the Central Government on 17-1-1990.

Ex. 30

BEFORE SHRI G. S. BAROT, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL (CENTRAL) AT AHMEDABAD

Reference (ITC) No. 2 of 1986

ADJUDICATION

BETWEEN

Assistant Divisional Engineer (Telephones),
Railwayपुरा II Exchange,
Ahmedabad Telephones,
Ahmedabad-380 002.

AND

The workman employed under it.

In the matter of termination of services of
Shri Ashok Yeshwant Khandare, a casual
employee in P&T Deptt.

APPEARANCES :

Shri Z. K. Sayed for the Telephones.
Shri N. R. Vanjani, Advocate for the workman.

AWARD

This industrial dispute between Assistant Divisional Engineer (Telephones), Ahmedabad and the workmen employed under him has been referred to me for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947, by the Government of India, Ministry of Labour's Order No. L-40012/17/85-D.II(B) dated 6-2-1986.

2. The dispute relates to a single demand of the workmen which is as under :—

“Whether the action of P&T Deptt (Telephones) Railwayपुरा II Exchange, Ahmedabad in terminating the services of Shri Ashok Yeshwant Khandare, a casual employee in the P&T Deptt. Telephones Railwayपुरा II Exchange, Ahmedabad with effect from 7-5-1984 is legal and justified? If not, what relief Shri Khandare is entitled?”

3. On behalf of the workman concerned he has filed a statement of claim at Ex. 4 wherein he has stated that he was employed as a casual labour through employment exchange and he had reported for duty on 17-2-1982. He was posted in telephone exchange on a monthly wages of Rs. 322/-; that he was working on 17-2-1982 and was arbitrarily and unlawfully terminated from service with effect from 7-5-1984 without any notice etc. He was also not paid retrenchment compensation as per the provisions of Section 25F of the Industrial Disputes Act, 1947; that his record was good and there was no adverse remark against him; that he was charged with committing theft of telephone cables; that the department had not lodged any complaint with the police for the alleged theft of cables against him; that he is unemployed since the date of his removal and in spite of the efforts made, he has not been able to secure any gainful employment for him; that according to him he was unlawfully terminated with effect from 7-5-1984 and, therefore, has prayed to reinstate him with full back wages.

4. Ex. 8 is the written statement filed by the department wherein it has been stated that the workman concerned has been employed as a casual

labour on daily basis at the rate of Rs. 10.45 per day which used to be revised from time to time; that he was not appointed on monthly wages as stated by him. that it was further submitted that casual labours are not regular servants of the department but they are employed only on casual basis and, therefore, they are not entitled to any protection as claimed by them; that the services of the workman concerned were terminated for his involvement in theft of cable coils on 21-4-1984; that while he was on duty cable coils were found missing; that the statements of Junior Engineer and the regular staff were recorded and it was suspected that the said casual labour i.e. the workman concerned was involved; that from the next date i.e. 22-4-84 the workman concerned remained absent which reveals that he was involved in the case; that unlike the regular staff no reports are maintained for casual workmen; that the workmen concerned being removed on the ground of theft no question of reinstatement arises; that the workman concerned being a casual workman the provisions of Central Civil Services Rules would not be applicable to him; that the casual labours are entitled to weekly off and national holidays but not entitled to any other type of leave or benefits; that the order was passed after preliminary inquiry wherein the statements of the regular staff Shri G. K. Patel, Junior Engineer and Shri K. J. Jadeja, Junior Engineer and Shri S. M. Ansari were recorded; that there is no provision in the department rules to initiate the proceedings or to initiate any inquiry against the casual labourers except giving him notice; that as far as casual labour is concerned, he is only given muster roll card showing the number of days worked by him. Hence it was submitted that action taken against the workman concerned was quite legal, valid and proper.

5. The parties have produced documentary evidence and have also led oral evidence. At Ex. 7 the workman concerned has examined himself wherein he says that he joined this department on 17-2-1982 through employment exchange. He was working as a Peon; he was a casual labourer but was working on a permanent post; that he was discharged from service on 7-5-1984 and he was not paid anything by way of notice or notice pay or retrenchment compensation; that juniors to him are continued in the service; that between the period from 22-4-1984 to 6-5-1984 he was on leave. He had requested orally for the leave and one Shri J. K. Patel, Junior Engineer had sanctioned it. He was given a written order when he joined the service; that he had already furnished his reply to the same. He has also stated that Ex. 16 is his muster card wherein his presence was marked; that in the said muster card there is an endorsement that in the month of May there was an incident of theft during his duty hours and, therefore, the department did not want to continue him in service. He has not given a separate termination order. He has also stated that the department has not filed any police complaint regarding the incident of theft and no inquiry against him was also held; that he has been removed without the charge having been proved against him. He is prepared to join service if given. He has not secured any job for him. In his cross-examination he has denied the suggestion that he

was employed as a daily-wager. According to him he was getting monthly wages. He also denied a suggestion that he had not put in the continuous service. He also stated that he had proceeded on leave after getting the same sanctioned orally. He has further admitted that he has not made any application in that behalf. As against that the department has examined one Shokatali at Ex. 21 who works as an Assistant Engineer in the Department. In his statement he has stated that he knows the workman concerned who was working in that department as a daily-wager and he was being paid Rs. 10.45 by way of daily wage. He was discharged from service with effect from 21-4-1984; he also stated that the workman concerned was not entitled to any other types of leave. He was entitled to only 3 National Holidays and weekly offs. He also stated that he had committed that of 500 meters cables; that the preliminary investigations were made and statements were recorded. He also very categorically stated that since he was a casual labourer, he was not governed by service conduct rules and, therefore, he was not given any charge-sheet and discharged. In the cross-examination this witness has admitted that casual labourer is appointed only if there is work and the same is given after taking previous approval. He also stated that the work of the casual labour is not of a permanent nature but it is of temporary nature. Casual labour is not governed by the rules which govern the regular employees. As far as casual labourers are concerned, the conditions are mentioned in the appointment letter; that such conditions are communicated by the Head Office; that the workman concerned was given an appointment letter dated 17-2-1982. He also stated that the reasons for terminating his service was the theft of 500 metres of cable. He further stated that when cases of this type occur preliminary statements are recorded and if necessary Police is also informed. In the instant case statements of the persons on duty were taken. Of course, no police case was made; that the workman concerned was not on duty on the next day i.e. 22-4-1984 and he was called by sending him a telegram. He, however, admitted that he was not given any charge-sheet and no inquiry was held. He was also not given retrenchment compensation or notice pay etc. He also stated that the workman concerned was not on leave but he was absent from service from 22-4-1984. He had not asked for any leave. As far as casual labours are concerned, it is not required to give termination order as per the conditions while appointing such persons. When he returned after receiving the telegram he was informed about termination of his services. He very categorically denied that he had taken oral leave and lastly he had stated that from the statements recorded it was felt that he was involved in the theft of coils and, therefore, his services were terminated; that there are no separate rules for casual labourers. The department also examined one another witness viz. Kiritsinh Jilubha at Ex. 22. He states that he is working as an Assistant Engineer. Before that he was in Railwaypura. He knew the workman concerned who was a casual labour; he also stated about the incident of theft and narrating the same, he stated that on the date of the incident at about 11-00 p.m. when he visited the switch room the workman concerned was supposed to be there but

he was not found there. Thereupon he tried to find him out but he came after about 5 minutes. When he returned there were white spots on his clothes. On inquiry as to where he was, he was not able to reply properly. The witness further says that he was suspicious about his conduct and, therefore, he minutely observed the room and found pieces of grass at various places. He also found a small piece of PVC wire which is used for wrapping cables. He, therefore, suspected a theft of wires. He, therefore, took note of the cables lying there. As there was no one at the time and on the next day morning he took stock and found one cable missing. The next day the Assistant Engineer investigated in the matter and recorded my statement. The witness was cross-examined at length and the witness had stated that the workman concerned was working as a Peon or a Helper. The switch room was in charge of the Assistant Engineer who is superior. Normally the Watchman or a Peon is not posted in the switch room; that the store in charge keeps account about the cable coils; that during the night there would not be any necessity of cables and if such a necessity arises Shri Patel has to be called for and only then the cable can be had. He also stated that on the date of the incident as he was in the night duty switch room was under his supervision. The incident took place on 21-4-1984. He was shown Ex. 16 and after looking that exhibit he has stated that the endorsement made therein was made by the officer concerned. It is regarding the incident of theft and about the removal of the workman concerned. When the statements were recorded on 23-4-1984 at 2-00 p.m. the workman concerned was present. He had also informed as required when he suspected a theft of coil; that the workman concerned was absent from 22-4-1984 to 6-5-1984. He concluded about the theft being committed by the workman concerned from the documents which he had and the white spots present on his clothes.

6. I have heard Shri N. R. Vanjani, the learned Advocate for the workman concerned and Shri Z. K. Saiyed for the Department.

7. Shri Vanjani had argued that the workman concerned had already completed 240 days in service and his name has been suddenly removed; that he was taken up as he was sponsored through employment exchange; that after he got the job in this department his name was removed from the employment exchange; that the workman concerned had a clear record; that he was not given any notice or notice pay or the retrenchment compensation as required under the law; that no police complaint was lodged for the incident of theft against him; that the allegation has not been proved and he was wrongfully removed. He should, therefore, be reinstated on his original post with full back wages. Shri Vanjani had also relied on several decisions in support of his contentions.

8. As against that Shri Saiyed for the department drew my attention that the workman concerned was involved in the incident of theft; that the statements of three persons were recorded in the presence of the workman concerned; that it was true that no inquiry was held but he contended that for casual labourers no procedure has been laid down; that the negligence of the workman concerned is duly proved;

that as far as casual labour is concerned, it was not necessary to hold any inquiry as he can be removed at any time and there is no breach of Section 25 as alleged. Shri Saiyed, therefore, submitted that the reference deserves to be dismissed.

9. I have considered the contentions of both the sides. As far as the facts and circumstances are concerned, there is no much dispute. The fact remains that on the date of the incident cables were stolen. This is proved by three statements of two engineers and one workman. It is also fact that no charge-sheet was given to the workman concerned nor any inquiry held in the matter. The Department had not lodged any police complaint about the workman concerned but merely because he was suspected of having been involved in the incident of theft the department has terminated his services. As far as law is concerned, any termination amounts to retrenchment except some few cases where it could not amount to retrenchment. In the instant case the workman was a casual workman but he had completed more than 240 days. Moreover, the work which he was doing was also of a permanent nature. It is not that it was the work which was for a fixed period. In my view, therefore, merely because of branding him as a casual worker, he would not be that type of casual labour who can be removed at the sweet will of the employer. It appears from item No. 1 of Ex. 9 which is a letter dated 22-2-1985 written to the Assistant Commissioner (Central) Ahmadabad by the Department that there was an incident of theft on 21-4-1985 wherein investigations were made from the employees on duty. From the statements it was suspected that the workman concerned who was only duty was involved in the missing of one cable coil from the switch room and only on this ground the workman concerned was removed from the job immediately. Prima facie this is a case where rules of natural justice have been violated. It may be that the workman concerned may be a casual workman but as stated above, he was not that type of a casual workman who can be removed at the sweet will of the employer. He had worked for more than two years continuously and his work was also of a permanent type. In my view, therefore, he cannot be removed the way in which he has been removed from service. By now the law is well settled that no one can be condemned unheard. Moreover, it is very clear from documentary as well as oral evidence that the workman was discharged only on suspicion which in my view is not proper and legal. The workman has also deposed that though he tried for the job, he has not been able to secure any job and, therefore, I am of the view that he not only deserves reinstatement but also full back wages. For the reasons stated above, the management of the Assistant Divisional Engineer (Telephones) Ahmedabad is directed to reinstate Shri Ashok Khandare, the workman concerned on his original post. It is also directed that he be given full back wages from the date of his discharge till he is reinstated. The workman concerned would also be entitled to the cost of Rs. 200/- (Rupees two hundred only).
Ahmedabad.

Date : 30th December, 1989.

G. S. ABROL, Presiding Officer.
[No. L-40012/17/85-D.II(B)(Pt.)]

का.प्रा. 394.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इण्डिया गवर्नमेंट मिन्ट हैदराबाद के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-1-90 को प्राप्त हुआ था।

S.O. 394.—In pursuance of Section 17 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of India Government Mint, Hyderabad and their workmen which was received by the Central Government on 17-1-90.

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri C. Rami Reddy, B.Sc., B.L., Industrial Tribunal.
Dated, 5th day of January 1990
Industrial Dispute No. 49 of 1987

BETWEEN

The Workmen of India Government Mint, Hyderabad.

AND

The Management of India Government Mint, Hyderabad.

APPEARANCES :

Sarvasri Y. Subhas and K. Vinod Kumar., Advocates —
for the Workman.

Sri M. Pandu Ranga Rao, Standing Counsel for Central Government—for the Management.

AWARD

The Government of India, Ministry of Labour by its Order No. L-16012/2/86-D.II (B), dated 14-10-1987 referred the following dispute under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 between the employers in relation to the Management of India Government Mint, Hyderabad and their workman to this Tribunal for adjudication :

“Whether the action of the Management of India Government Mint, Hyderabad terminating the services of Sri Kasinath Rao Jagtap w.e.t. 23-9-85 is justified ? If not to what relief and from what date, he is entitled to ?”

This reference was registered as Industrial Dispute No. 49 of 1987 and notices were issued to the parties.

2. The workman filed a claim statement contending as follows :—The workman was appointed by the Management through Employment Exchange by an order dated 5-9-1985. He became seriously sick from 13-9-1985. He was given termination order dated 23-9-1985 by post. He gave leave application with medical certificate requesting the Management to cancel the termination order. The Management did not give any reply. Thereafter the workman gave a legal notice dated 7-7-1986 and 16-7-1986 to which the Management gave a reply letter dated 17-7-1986 refusing to cancel the termination order dated 23-9-1985. Thereafter he raised industrial dispute before the Central Labour Commissioner leading to the reference in question. The termination order dated 23-9-1985 is illegal. The workman is a permanent employee and so he cannot be removed summarily. Even a temporary worker under Rule 5 of the Central Service Rules cannot be removed without one month's notice and without paying one month's salary. There was no enquiry for the alleged absenteeism. No opportunity was given to the workman to defend himself. The Articles 14 and 16 are violated. The new workers were appointed after terminating the services of the workman by the Management without asking the workman to join duty. Hence it is prayed that the workman may be reinstated into service with full back wages and continuity of service.

3. The Management filed a counter contending as follows: The workman was offered temporary post of mazdoor as per the Memorandum dated 26-8-1985. He accepted the terms and conditions of the appointment in his letter dated 4-9-1985. Thereafter he was appointed as Mazdoor w.e.f. 5-9-1985 purely on temporary capacity. He was placed on probation for a period of one year as per the recruitment rules. After appointment he worked from 5-9-1985 to 12-9-1985. From 13-9-1985 he absented himself from duty without any leave application and prior sanction of leave. Hence by invoking the provision of Clause 1 of the offer of appointment order contained in Memorandum dated 26-8-1985, the services of the workman were terminated w.e.f. 23-9-1985 under the order dated 23-9-1985. The Management also gave a reply dated 17-7-1986 to the notice dated 7-7-1986 issued by the workman through his advocate. The Management informed the workman in the reply letter dated 17-7-1986 that the termination of the workman was issued in accordance with the terms of Clause 1 of the offer of appointment issued in Memorandum dated 26-8-1985 and agreed to by the workman in its acceptance of offer dated 4-9-1985. Thus the action of the Management is within the ambit of terms and conditions agreed to by the workman. The claim of the workman that he was a permanent employee is not correct. He was appointed as mazdoor purely on temporary capacity. The C.C.S. (Temporary) Rules 1965 do not apply to the workman who is governed by the Mint Standing Orders. The termination of the workman is done in accordance with the terms of employment which the workman himself had accepted and the question of violation of Articles 14 and 16 of the Constitution of India does not arise. Since the termination is justified, the workman is liable to be dismissed.

4. The point for consideration is whether the action of the Management of India Government Mint, Hyderabad in terminating the services of Sri Kasinath Rao Jagtap w.e.f. 23-9-1985 is justified?

5. The workman gave evidence as WW-1 in support of the averments filed by him in the claim statement. He also marked Exs. W-1 to W-12. WW-2 is one Dr. P. Viswanath who is private medical practitioner. He spoke to the fact that he treated the workman and issued a Medical Certificate Ex W-4.

6. As against the above evidence the Management examined one Md. Wahid Hussain who is working as Bullion Officer in the Management Mint as MW 1. He marked Exs. M-1 to M-10.

7. The facts as revealed from the documents filed both by the workman and the management are as follows:—The Management issued an offer of appointment dated 26-8-1984 containing terms of appointment. The said offer of appointment is Ex. M-1. Clauses 1, 4, 10 and 12 of Ex. M-1 are relevant for the purpose of this case, and they are as follows:—

- “1. The post is purely temporary and is likely to be terminated at any time without notice and without assigning any reasons whatsoever within the first three months of his appointment and thereafter with one month's notice on either side.
4. He will be required to observe the Mint Standing Orders strictly. He will have to submit himself for personal search by the Mint Security Staff.
10. If that officer in accepted by him he should sign the acceptance of offer in the form enclosed and return it immediately to this office and report for being sent for the Medical Examination. This offer is liable to pass if he does not join within the stipulated date i.e. within 15 days from the date of issue of this offer of appointment.
12. Period of probation is one year as per the recruitment rules.”

The workman accepted the offer of appointment and gave the letter of acceptance marked as Ex. M-2. Then an order of appointment dated 5-9-1985 was issued by the Management appointing the workman in question and three others as mazdoors purely on temporary capacity until further orders. It is also stated in the appointment order (Ex. M-3) that the workman will be on probation for the period of one year as per recruitment rules. In pursuance of Ex. M-3 the workman joined duty on 5-9-1985 and worked up to 12-9-1985.

Thereafter he absented himself from duty. The Management issued termination order dated 23-9-1985 marked as Ex. M-4 stating that the services of the workman stands terminated w.e.f. 23-9-1985, in terms of Clause 1 of offer of appointment dated 26-8-1985 (Ex. M-1). Then the workman made a representation dated 29-10-1985 along with the medical certificate dated 27-7-1984 marked as Ex. M-10 seeking for reinstatement. He stated in the representation dated 29-10-1985 that he fell sick from 13-9-1984 that he could not intimate about his sickness as there was none for him to intimate the same. He made another representation dated 18-3-1986 marked as Ex. W-5 seeking reinstatement. He issued notices dated 7-7-1986 and 16-7-1986 marked as Ex. W-6 and W-7 respectively through an Advocate seeking reinstatement. The Management gave a reply dated 16/17-7-1987 marked as Ex. W-8 to the workman marking a copy to the Advocate stating that the termination was issued in accordance with the terms of Clause 1 of offer of appointment issued under Memorandum dated 26-8-1985. Thereafter the workman filed an application under Section 2-A of the I. D. Act 1947 marked as Ex. W-16 seeking for reinstatement. The conciliation proceedings took place between the management and the workman, and the conciliation failed. Ex. W-11 is minutes of conciliation proceedings held on 3-11-1986. Ex. W-12 is the report submitted by the Assistant Commissioner of Labour, Hyderabad under Section 12(4) of the I. D. Act. There cannot be dispute as the said facts are born out from documents.

8. As seen from the offer of appointment dated 26-8-1985 (Ex. M-1) and the order of appointment dated 5-9-1985 (Ex. M-3), the appointment of the workman in question is purely temporary and the period of probation is mentioned as one year. In the light of the Exs. M-1 and M-3 it is difficult to say that the workman is a permanent employee as claimed by him in the claim statement. It is admitted that the workman absented himself from duty w.e.f. 13-9-1985, and that the Management passed orders dated 23-9-1985 marked as Ex. M-4, terminating the services of the workman w.e.f. 23-9-1985 by invoking Clause 1 of the offer of appointment dated 26-8-1985. The submissions made by the learned counsel for the workman are that the workman was removed without a charge and without holding an enquiry and that such termination is opposed to the principles of natural justice and so the termination order is liable to be set aside. Further it is pointed out that Clause 1 of Ex. M-1 invoked by the Management is violated of the guarantees under Articles 14 and 16 of the Constitution of India and so such rule is void. The learned counsel for the workman relied upon the decision of the Supreme Court reported in 1986 (11) L.J., page 509 (O. P. Bhandari v. Indian Tourism Development Corporation Ltd), wherein the rule providing for discharge simpliciter cannot coexist with Articles 14 and 16 of the Constitution of India and such rule being violative of the guarantee under Articles 14 and 16 of the Constitution of India is void. I am not inclined to agree with the above submissions made on behalf of the workman. The decision cited by the learned counsel for the workman is in respect of permanent employees. In the present case the employment of the workman was purely on temporary basis as stated both in Exs. M-1 and as well in Ex. M-3. He was under probation and the period of probation is mentioned as one year. Clause 1 of the terms of appointment mentioned in the offer of appointment (Ex. M-1) permits the Management to terminate the services of the workman without notice and without assigning any reason whatsoever within first three months of the appointment and thereafter one month's notice on either side. The workman absented from duty w.e.f. 13-9-1985 without leave application or prior sanctioned leave. He admitted in the cross examination that he sent the letter informing the sickness on 29-10-1985. He also admitted that his family members were present along with him when he was ill. He also admitted that his wife was also present. Even admitting for a moment that the workman was sick, there are practically no reasons for not sending the leave letter till 29-10-1985. Clause 1 of the offer of appointment dated 26-8-1985 (Ex. M-1) was invoked by the Management in terminating the services of the workman. The action is within the ambit of terms and conditions as agreed to by the workman under Ex. M-2. It may be noted that the workman agreed to the terms of offer under Ex. M-2. The termination of probationer for unauthorised leave for long period come up for consideration in the decision of our High Court reported in 1988(56) FLR, page 559 (N. Ratnaanjelu v. P.M.C.M. Corporation). A reference was made to the decision of the Supreme Court reported in 1978

(36-FLR page 479. It is held in the Supreme Court decision that "if the order of termination does not cause a stigma, the officer has no right to complain, that without enquiry the probation could not be terminated, that the question of enquiry would arise only in cases where as a disciplinary measure the appointing authority seeks to terminate, but not otherwise. Based on the observations of Supreme Court our High Court held that if the order of termination of probation is innocuous and it does not cast any stigma to the workman and the termination is not made for any collateral purpose or with malafide intention, such order of termination does not call for interference. Thus our High Court did not interfere with the order of termination in that case. In my view the observations of our High Court are applicable to the facts of our case. In the present case also the order of termination does not cast any stigma on the petitioner. Further the material on record does not disclose that the termination was made with a malafide intention. Thus I am of the view that invoking of Clause 1 of offer of appointment in Ex. M-1 by the Management in terminating the services of the workman are perfectly legal and that the termination of the workman is within the ambit of the terms and conditions as agreed to by the workman. Thus I find that the termination is justified.

9. In the result that the action of the Management of India Government Mint, Hyderabad, in terminating the services of Sri Kasinath Rao Jagtap w.e.f. 23-9-1985 is justified.

Award is passed accordingly.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 5th day of January, 1990.

SRI C. RAMJI REDDY, Industrial Tribunal
[No. L-16012/2/86-D.II(B) (P.L.)]

Appendix of Evidence

Witnesses Examined

for the Workmen :

WW-1—J. Kasinath Rao

WW-2—Dr. P. Viswanath

Witnesses Examined

for the Management :

MW-1—Md. Wahid Hussain.

Documents marked for the Workmen

- Ex. W-1—Appointment Order dated 5-9-85 issued to Kasinath Rao Jagtap by the General Manager, India Government Mint, Hyderabad (A.P.)
- Ex. W-2—Termination Order dated 23-9-1985, issued Kasinath Rao Jagtap by the General Manager, India Government Mint, Hyderabad (A. P.).
- Ex. W-3—Representation dated 29-10-85 made by Kasinath Rao to the General Manager, India Government Mint, Hyderabad (A.P.) for reinstatement.
- Ex. W-4—Photostat copy of the Medical Certificate dated 27-10-85 issued to Kasinath Rao Jagtap by Dr. P. Vishwanath.
- Ex. W-5—Representation dated 18-3-86 made by J. Kasinath Rao to the General Manager, India Government Mint, Hyderabad with regard to reconsideration of termination orders.
- Ex. W-6—Notice dated 7-7-86 issued to the General Manager, India Government Mint, Hyderabad by C. Suryanarayana, Advocate.
- Ex. W-7—True Copy of the notice dated 16-7-86 issued to the General Manager, India Government Mint, Hyderabad by C. Suryanarayan, Advocate.
- Ex. W-8—Reply dated 16/17-7-86 given by the General Manager, India Government Mint, Hyderabad to Kasinath Rao Jagtap in view of notice dated 7-7-86.
- Ex. W-9—Reply dated 22-7-86 given by the General Manager, India Government Mint, Hyderabad to C. Suryanarayan, Advocate in view of notice dated 16-7-86.
- Ex. W-10—Application dated 28-7-86 made by J. Kasinath Rao U/s. 2-A of I. D. Act 1947 before the Central Labour Commissioner at Hyderabad (A.P.)
- Ex. W-11—Minutes of conciliation proceedings held on 3-11-86 in respect of the Industrial Dispute between

the Management of Government of India Mint, Hyderabad and their workman Kasinath Rao Jagtap regarding alleged illegal terminating of services.

Ex. W-12—True Copy of the failure conciliation report dated 18-11-86.

Documents marked for the Management

- Ex. M-1—Offer of Appointment Order dated 26-8-85 issued to Kasinath Rao Jagtap by the General Manager, India Government Mint, Hyderabad.
- Ex. M-2—Acceptance of offer letter dated 4-9-85 from Kasinath Rao Jagtap to the General Manager, India Government Mint, Hyderabad (A.P.)
- Ex. M-3—Appointment Order dated 5-9-1985 issued to Kasinath Rao Jagtap by the General Manager, India Government Mint, Hyderabad (A.P.)
- Ex. M-4—Termination Order dated 23-9-1985 issued to Kasinath Rao Jagtap by the General Manager, India Government Mint, Hyderabad (A.P.)
- Ex. M-5—Notice dated 7-7-86 given by C. Suryanarayana Rao Advocate to the General Manager, India Government Mint, Hyderabad with regard to termination of the services of Kasinath Rao Jagtap.
- Ex. M-6—Reply dated 17-7-86 given by the General Manager, India Government Mint, Hyderabad to Kasinath Rao Jagtap in view of the notice dated 7-7-86 given by C. Suryanarayana Rao.
- Ex. M-7—Reply dated 22-7-86 given by the Administrative Officer for General Manager, India Government Mint, Hyderabad to C. Suryanarayana in view of the notice dated 7-7-86 issued to the General Manager, India Government Mint, Hyderabad.
- Ex. M-8—Photostat Copy of the Standing Orders of India Government Mint, Hyderabad.
- Ex. M-9—Statement of Labour Officer dated 2-1-1986.
- Ex. M-10—Photostat Copy of the Application for reinstatement dated 29-10-85 of Kasinath Rao Jagtap to the General Manager India Government Mint, Hyderabad (A.P.) along with a copy of Medical Certificate.

का.आ. 395—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टेलीकाम्यूनिकेशन डिस्ट्रिक्ट इंजीनियर, रोहताक के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चंडीगढ़ के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-1-99 को प्राप्त हुआ था।

S.O. 395.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publish the award of the Central Government Industrial Tribunal, Chandigarh as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecommunication, Distt. Engineer, Rohtak and their workmen, which was received by the Central Government on 15-1-1990.

ANNEXURE

BEFORE SHRI M. S. NAGRA, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL -
CUM-LABOUR COURT, CHANDIGARH

Case No. I. D. 66/89

PARTIES :

Employer in relation to the management of Telecommunication Rohtak.

AND

Their workman : Bijender Singh.

APPEARANCES :

For the workman—None.

For the management—Shri Arun Walla.

AWARD

Dated, 11th December, 1989

On a dispute raised by Bijender Singh workman against the management of Telecommunication, Central Government had vide No. L-40012/51/88-D.II (B) dated 2-5-1989 referred the following dispute to this Tribunal for adjudication :

“Whether the action of the Telecommunication, District Engineer, Rohtak in terminating the services of Shri Bijender Singh son of Shri Prithvi Singh, casual worker w.c.f. 23-4-88 is justified? If not, to what relief the worker concerned is entitled to?”

2. Notice of the proceedings was issued to the workman through registered A.D. post of the same was received back undelivered with the report that the addressee is residing in Arabia a foreign country. In the given circumstances of the matter it is not possible to proceed with the reference. The reference is returned as a non-adjudicated for want of prosecution.

M. S. NAGRA, Presiding Officer
[No. L-40012/51/88-D.II(H) (Pt.)]
HARI SINGH, Desk Officer

नई दिल्ली, 25 जनवरी, 1990

का.आ. 996—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, सैमर्स भारत कोकिंग कोल लि. की खास कुपुण्डा कोलियरी की खास कुपुण्डा कैंटीन के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (अं. 2) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-1-90 को प्राप्त हुआ था।

New Delhi, the 25th January, 1990

S.O. 396.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Khas Kusunda Canteen of Khas Kusunda Colliery of M/s. BCCI and their workmen, which was received by the Central Government on the 16-1-1990.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD
PRESENT :

Shri I. N. Sinha, Presiding Officer.

REFERENCE NO. 104 OF 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

PARTIES :

Employers in relation to the management of Khas Kusunda Canteen of Khas Kusunda Colliery of M/s. Bharat Coking Coal Limited and their workmen.

APPEARANCES :

On behalf of the workmen : Shri Lalit Burman,
Vice President, United Coal Workers Un.on.

On behalf of the employers : Shri R. S. Murthy,
Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated Dhanbad, the 10th January, 1990

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(299)/86/D. II (A), dated, the March, 1987.

THE SCHEDULE

“Whether the demand of United Coal Workers Union that the management of Khas Kusunda Colliery of M/s. Bharat Coking Coal Limited should departmentalise and give wages and other benefits as per National Coal Wage Agreement-III to the 6 workmen whose names are given in the annexure below, reported to be working at the Canteen of Khas Kusunda Colliery is justified? If so to what relief are these workmen entitled?”

ANNEXURE

1. Shri Kedar Singh, S/o Kishan Singh.
2. Shri Jiwan Kumar Sinha, S/o. L. B. Sinha.
3. Shri Rambilash Singh, S/o R. N. Singh;
4. Shri Kumar Sayendra Singh, S/o. Ram Prakash Singh.
5. Shri Ganesh Bishwakarma S/o. Kesho Vishwakarma.
6. Shri Prabhat Kumar Singh, S/o. R. N. Singh:

The case of the workman is that the concerned 6 workmen were working in the colliery canteen on Khas Kusunda Colliery in different capacities since September, 1977. Although they had been working for a long time in the colliery canteen the management did not departmentalise and regularise them in spite of request made by the concerned workmen. For the maintenance of the colliery canteen provision for furniture and equipment and the canteen staff are the statutory obligation of the colliery management under Rules, 64, 66 and 68 of the Mines Rules, 1955. The management provided furnished canteen building equipment and utensil for the canteen. The management was also supplying fuel coal water and electricity as per mines rules but the management refused to maintain the canteen staff as departmental worker in order to deprive them of the wages and other benefits as per NCWAs. The canteen staff are workmen covered by the Central Wage Board for the Coal Mining Industry. The NCWA-III also provided for establishment of canteen in each colliery and had also decided that the same would not be run by any contractor. The concerned workmen demanded that they should be regularised as departmental workers and should be paid the wages and other benefits as per NCWA-III. The colliery management refused to concede the

demand of the workmen and as such the matter was taken up by the union with the higher management. When there was no response from any quarter, the union raised an industrial dispute before the ALC(O) Dhanbad which ended in failure and on submission of failure report the Central Government referred the industrial dispute for adjudication to this Tribunal. The management admitted during conciliation proceeding about the fact that they furnished canteen building and other facilities but they maintained that the concerned workmen have taken contract for running the canteen. There is no contract between the concerned workmen and the management for running the said colliery canteen of Khas Kusunda Colliery. The stand taken by the management amounts to gross violation of the provision of the Mines Act, 1952 the Mines Rules, 1952 as also those of the NCWA-III and is unjustified. It is not a fact that the concerned workmen are the partners of any firm. The canteen was being satisfactorily run and there was a committee to guide and supervise the canteen. It is submitted that as the concerned workmen were working in the canteen of the colliery the demand of the union for departmentalising the concerned workmen and giving them the wages and other benefits as per NCWA-III is fully justified. It is therefore prayed that the concerned workmen be departmentalised with effect from 1-1-1983 with all consequential benefits of grades/categories wages, bonus, leave and sick benefits and all other benefits payable to a regular workman under NCWA-III.

The case of the management is that the reference is bad in law and not maintainable in as much as the issue referred does not constitute any industrial dispute within the meaning of Section 2(k) of the I.D. Act. The reference order apparently seeks the abolition of the contract system and departmentalisation of the work of running of a canteen in Khas Kusunda colliery. Further the concerned workmen are not the workmen within the meaning of Section 2(s) of the I.D. Act.

The concerned workmen are partners of the firm and they entered into partnership for the purpose of running the canteen at Khas Kusunda Colliery. Being the partners they are in a position of employers and they cannot be transferred into workmen to fall within the scope of Section 2(s) of the I.D. Act. There is absolutely no case for the existence of any industrial dispute as envisaged in the present reference order and there cannot be any adjudication with reference to such an issue. Rules 68 of the Mines Rules 1955 deals with the maintenance of the Canteen in the Mines. This rule envisaged that a canteen shall be provided by the owner, Agent/Manager and where the workers have to run the canteen themselves cooperative society for this purpose may be permitted to run the canteen. The management is entitled to entrust the job of establishment of a canteen and running thereof to an outside agency as the basic intention of the framers of the law is that a canteen should be provided for the facilities of the workers. In the present case the workers in general and management found it more convenient to run the canteen in the manner stated above. It is not feasible to departmentalise the canteen and it is not possible to work the canteen in industrial organisation departmentally

without creating numerous administrative and industrial relations problems without the prices of the food-stuff and other refreshments being considerably increased. The concerned workmen forming into a partnership are running the canteen on their own and managing the whole arrangement satisfactorily. The management provided them canteen building and is supplying free coal as fuel. No rent is being charged from the concerned workmen for the building so that the prices of the food stuff and other refreshments are kept at low price by reducing the total cost of managing the canteen. By no state of imagination such partners of a firm can be transformed into workmen. The said partners of the firm are sharing the gain of the working of the canteen in the capacity of the employers and there is no question of the management paying any wages to such partners of the canteen or to provide employment to them. The management has surplus worker and it is in a position to post such workmen in the canteen for running the same and it does not require the services of the concerned workmen to run the canteen departmentally. On the above facts it is submitted that the concerned persons are not entitled to any relief and that the Award may be made in favour of the management.

The points for decision are :

- (1) Whether the concerned workmen are running the Canteen in Khas Kusunda Colliery.
- (2) Whether the canteen being run by the concerned workmen is the departmental canteen of Khas Kusunda Colliery, and
- (3) Whether the concerned workmen should be departmentalised and regularised as the workmen of the said canteen.

The workmen and the management each examined one witness in support of their respective case. The documents of the workmen have been marked Ext-1 to W-4. The management did not exhibit any document.

Point Nos. 1 and 2

These two points are taken up together for the sake of convenience.

It is admitted by the management that a canteen is being run in the canteen building of Khas Kusunda colliery. In para 4 of the W.S. of the workmen it is stated that the management has provided furnished canteen building, equipment and utensils and the management has been supplying fuel coal, water and electricity as per mines rules. The management in their W.S. have admitted that they have provided the canteen building and is supplying free coal as fuel and no rent is being charged from the concerned partners for the building so that the price of the food stuffs and other refreshments are kept at low price. MW-1 Shri R. N. Pd. Singh had worked in Khas Kusunda Colliery as Personnel Officer and Sr. P.O. from April, 1977 to March, 1982. He has stated that there was a canteen building in Khas Kusunda Colliery constructed during the time of the private management. He knows one of the concerned workman Shri Kedar Singh and that Kedar Singh had approached the management to start tea shop in the canteen build-

ing of Khas Kusunda Colliery and the management allowed him to run his tea shop in the said canteen building. He has further stated that a stated that a cook and a canteen boy used to work along with Kedar Singh in the said tea shop. He has also admitted that when the management required tea, the same used to be taken from Kedar Singh as well as from other tea shops. He has denied that all the concerned workmen named in the annexure to the order of reference were running the canteen along with Kedar Singh. He has also stated that the said canteen building had electricity and there was a pucca construction, in the canteen, of bench and table. He has no doubt, denied about the fact that the management provided coal to the concerned person in the canteen building but the said fact is admitted in the very W.S. of the management and there is no doubt that the management was providing fuel coal in the said canteen. WW-1 Shri Kedar Singh has stated that there is a canteen of Khas Kusunda Colliery situated near the colliery office. He has stated that all the workmen concerned as named in the schedule of the reference are working in the said canteen since 26-9-77. He has stated that they were appointed by Shri H. K. Jha. MW-1 has also admitted that Shri H. K. Jha was the Manager of Khas Kusunda colliery when Shri Kedar Singh was allowed to have a shop in the canteen building of Khas Kusunda colliery. He has stated that the company management provided coal, water and electricity free of cost to the canteen and that the management had also provided with almirahs and utensils for the said canteen. He has stated that tea, sweets and snacks are provided to the workmen in the canteen in the morning hours and that they also prepare meal for the workmen. He has stated that the canteen is open from 8.00 A.M. till 8 P.M. WW-1 denied that he had any contract with the management for running the said canteen. He has also stated that the management is not paying any salary for running the said canteen. In cross-examination he has stated that Shri H. K. Jha had not given them any letter to show their appointment in the canteen. He has further stated that about 1600 workmen work in Khas Kusunda colliery. Admittedly no appointment letter was issued by the management to the concerned workmen for working in the said canteen and as stated by WW-1 it was all oral. Ext. W-1 is a certificate dated 27-11-78 issued by Shri H. K. Jha, Manager, Khas Kusunda Colliery which shows that Shri Kedar Singh was running the canteen smoothly and properly since 26-9-77. It is further stated in the said certificate that there was no complaint from the workmen regarding quality of service of the canteen under guidance of Kedar Singh. All these evidence clearly shows that a canteen was being run in the canteen building of Khas Kusunda colliery for providing refreshments and meals to the workers of Khas Kusunda colliery. The evidence further shows that the canteen building was provided to Shri Kedar Singh free of rent and that electricity and water was also supplied free to them. It is also admitted that fuel coal was provided in the said canteen. Ext.W2 is a slip issued by the Engineer of Khas Kusunda Colliery for providing meal to 6 tyndals who were engaged to attend breakdown job on 16-11-84. Ext.W-3 is a Store requisition dated 25-11-87 issued in the name of Shri Kedar Singh's canteen showing that 2 bulbs were allowed for the

canteen to Shri Kedar Singh. Ext.W-4 is another requisition to show that empty explosive wooden boxes were provided to Kedar Singh for canteen use. It appears from these slips that the management was also providing bulbs in the canteen and was issuing orders for supply of meals to the workmen required to work on urgent work by the management. The certificate of the then Manager of Khas Kusunda colliery of Ext.W-1 clearly shows that Kedar Singh was running the canteen since 26-9-77. I hold therefore that Shri Kedar Singh was running the canteen at Khas Kusunda colliery and that the accommodation and other necessities for running the canteen were provided by the management. Admittedly there is no other canteen being run by the management in Khas Kusunda colliery and it appears that the canteen being run by Shri Kedar Singh was actually taken as the canteen of Khas Kusunda colliery.

The Coal Mines Rules 68 deals with the maintenance of the canteen in the mines and it is obligatory on the part of the management that a canteen is provided for the workmen by the Manager, Agent or owner of the colliery. Para 8.9 of NCWA-III deals with canteen. Para 8. 9.1 provides that the management agreed that during the agreement period there would be a canteen in each of the collieries/establishment and the same would not be run by the contractors. It further provides that utensils and fuel will also be supplied by the colliery management. No doubt it further provides that the management will also give certain amount to the canteen managing committee depending upon the size and operation of the canteen to enable the canteen to supply food articles at cheaper price. It appears from the facts of the case that the management had provided a canteen to the workmen of Khas Kusunda colliery which was being run by Shri Kedar Singh and that the management had provided building, fuel, water and electricity. It is stated by WW-1 that the management had also provided utensils for the canteen and the said fact has not been denied by MW-1. No doubt the management had not provided any amount to enable the canteen to supply food articles at cheaper price. It appears that the management just tried to show compliance of the canteen as provided under the Mines Rules and under para 8.9.1 of NCWA-III to the workmen of Khas Kusunda colliery by engaging Shri Kedar Singh to run the canteen but the management did not provide further aid in the shape of money so that the canteen could supply cheaper food materials to the workmen, the evidence therefore shows that the canteen being run by Shri Kedar Singh in the canteen building of Khas Kusunda colliery was actually the canteen of the management of Khas Kusunda colliery but the management avoided to employ the workmen working in the canteen as their own workmen in the canteen.

The case of the management is that Shri Kedar Singh and other concerned persons had constituted a firm of partners for running the said canteen. There is absolutely no material on the record to show that Shri Kedar Singh and the concerned persons were the persons of a firm to run the canteen at Khas Kusunda colliery. There is also no materials to show that Shri Kedar Singh was the contractor of the management to run the said canteen. On the contrary, as I have stated above it is apparent that Shri Kedar Singh was running the canteen at Khas Kusunda colliery and that the said canteen was actually the canteen of

Khas Kusunda colliery. Thus these 2 points are decided in favour of the workmen.

Point No. 3

Before deciding whether the concerned persons should be departmentalised and regularised as departmental workmen of the canteen of Khas Kusunda colliery, I would like to discuss the evidence whether all the 6 concerned persons were actually working in the said canteen.

It will appear from the W.S. of the workmen that Shri Kedar Singh was working as Canteen Manager, Sri Jiwan Kumar Sinha as Asstt. Canteen Manager, Ram Bilash Singh as canteen clerk, Kumar Satyendra Singh as Salesman, Ganesh Viswakarma as Canteen cook and Prabhat Kumar Singh as Canteen Boy. MW-1 has admitted in his evidence that Shri Kedar Singh was allowed to run the canteen in the canteen building and that a canteen cook and a canteen boy used to work along with Kedar Singh in the said canteen. Thus the evidence of MW-1 will show that the concerned persons Shri Kedar Singh, Ganesh Vishwakarma, Canteen Cook and Prabhat Kumar Singh Canteen boy were working in the canteen. It will appear from the evidence of WW-2 in his cross-examination that all the 6 concerned persons were running the said canteen and that they were distributing the savings from canteen. WW-1 has stated that they had a saving of about Rs. 100 to Rs. 200 per month in the said canteen and that they were not maintaining any account of income and expenses. He has further stated that daily sales varied from Rs. 50 to Rs. 200 per day. The said evidence will show that there was not much sale in the canteen. It will also appear that no account were being maintained for the income and expenses of the canteen. The savings of Rs. 100 to Rs. 200 per month for 6 concerned persons would give them about Rs. 16 to Rs. 32 per month each and this amount I think was too inadequate and un-lucrative to engage the 6 concerned persons. The amount of sale and savings in the said canteen, in my opinion, did not require an Asstt. Canteen Manager, Canteen Clerk and Salesman. The said canteen can very well be managed by the canteen cook and the canteen boy and Shri Kedar Singh to manage and run the said canteen. In my opinion the names of the concerned persons Jiwan Kumar Singh as Asstt. canteen Manager, Rambilash Singh as Canteen Clerk and Kumar Satyendra Singh as Salesman has been introduced for the purpose of getting employment to them in the canteen by the management. I think the evidence of MW-1 was true in as much as he had admitted that there were three persons who were running the canteen. I hold therefore that Shri Kedar Singh, Ganesh Viswakarma, Canteen Cook and Prabhat Kumar Singh canteen boy were actually the persons working in the canteen of Khas Kusunda colliery.

It appear from Ext.W-1 that Kedar Singh was running the canteen at Khas Kusunda colliery since September 1977 and there is no evidence to the effect that the said canteen was ever stopped. Ext. W-1 also shows that the canteen was running efficiently and that the workmen had no complaint regarding the services and supply of the eatables provided in the

said canteen. As it was obligatory on the part of the management to run a canteen in a colliery in accordance with the provision of Coal Mines Rules and the provision contained in para 8.9.1 of NCWA-III, it is quite evidence that the management was treating the canteen run by Shri Kedar Singh as departmental canteen. It is also in evidence that no other canteen was being run in Khas Kusunda colliery and as the canteen being run by Shri Kedar Singh was working since 1977, it is only a formality to departmentalise the said canteen and to regularise the three concerned person S/Shri Kedar Singh, Ganesh-viswakarma and Prabhat Kumar Singh and to give them the wages under NCWA-III, from March, 1987 when the present reference was made to this Tribunal. So far Ganesh Viswakarma is concerned he is working as canteen cook and as such he should be provided employment as canteen cook and should be paid the wages of canteen cook as provided under NCWAs. So far concerned person Prabhat Kumar Singh is concerned he is working as canteen boy and he should be employed as Canteen boy & should be given wages of canteen boy as provided under NCWAs. So far Shri Kedar Singh is concerned he cannot be given employment as Canteen Manager and to start with he should be given employment as Asstt. Canteen Manager and also should be given the wages of Asstt. Canteen Manager as provided under NCWAs. The placing of Shri Kedar Singh as Canteen Manager will be considered under rules of promotion of BCCL for the canteen personnel after he attains the qualification and experience for being promoted as Canteen Manager. As already stated the concerned persons Jiwan Kumar Singh, Rambilash Singh and Kumar Satyendra Kumar Singh were not required to work in the canteen according to the designation shown in the order of reference and also that they did not work in the said canteen. I hold that they cannot be given any employment in the canteen of Khas Kusunda colliery.

In the result, I hold that the demand of the United Coal Workers Union that the management of Khas Kusunda colliery of M/s. BCCL should departmentalise and give wages and other benefits as per NCWAs to Shri Kedar Singh, Ganesh Viswakarma and Prabhat Kumar Singh is justified but the demand in respect of Shri Jiwan Kumar Sinha, Ram Bilash Singh and Kr. Satyendra Singh is not justified. The management is directed to departmentalise the concerned canteen of Khas Kusunda colliery and regularise the three concerned workmen named above and be paid wages under NCWA with effect from March, 1987 within one month from the date of publication of the Award.

This is my Award.

I. N. SINHA, Presiding Officer
[No. L-20012(299)]86.D.III(A) [IR (Coal-I)]

का.ग्रा. 397—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गण में, केन्द्रीय सरकार इण्डियन ओवरसीस बैंक के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अन्तर्बंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण भवनेश्वर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 397.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure in the Industrial dispute between the employers in relation to the Indian Overseas Bank and their workmen, which was received by the Central Government on the 11-1-1990.

**INDUSTRIAL TRIBUNAL, ORISSA,
BHUBANESWAR.**

PRESENT :

Shri S. K. Misra, LL.B., Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar

Industrial Dispute Case No. 1 of 1987 (Central).
Dated, Bhubaneswar, the 27th December, 1989

BETWEEN :

The Management of Indian Overseas Bank, (Main Branch), Unit-III, (Station Square), Bhubaneswar.

First Party—Management.
AND

Their workman, namely, Sri K. C. Ray, C/o. Smt. Anupama Pattnaik, Ors. No. IV-4/2, Capital Hospital Compound, Unit-6, Bhubaneswar.

APPEARANCES :

Sri J. K. Tripathy, Advocate : For the First Party—Management.

Sri S. B. Nanda, Advocate : For the Second Party—workman.

AWARD

The Government of India in the Ministry of Labour, in exercise of the powers conferred upon them by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) and by their Order No. L-12012/98/86-D. II(A) dated 29-12-86 have referred the following dispute for adjudication by this Tribunal :—

“Whether the action of the Management of Indian Overseas Bank, Bhubaneswar main Branch in dismissing Shri K. C. Ray, Ex-Shroff Godown Keeper from service w.e.f. 17-4-85 is justified? If not, to what relief the workman is entitled?”

2. The facts leading to the present dispute are :—

The workman Sri Ray joined the services of the Bank as a Shroff/Godown Keeper on 15-1-72. After serving in different branches of the Bank he came on transfer to Bhubaneswar Branch with effect from 14-8-80. The practice prevailing in this Branch is that whenever the key holding cashier or the permanent cashier remains absent on leave, the next senior most Assistant is kept in his charge but if he declines to remain in charge for some reasons the next senior Assistant is entrusted the duties of the Chief Cashier. The permanent Chief Cashier of this Branch Sri R. K. Mohapatra remained absent on leave with effect from 8-2-82 and the next senior most Assistant below him one Sri G. C. Pattnaik declined to remain in his charge and therefore, the next senior most Sri Ray (the second party-workman) was kept in charge of the Chief Cashier. On 10-2-82, Sri Ray brought out from the

bank's vault Rs. 1,85,000/- for transaction to the Chief Cashier's counter. He left the Chief Cashier's counter for a few minutes and on return noticed that the cash kept by him in the counter had been handled by someone else and then on verification found that it was short by Rs. 40,000/-. He reported the matter immediately to the Branch Manager. All these happened within a period of fifteen minutes after the cash was brought out from the Bank's vault. The matter was reported to the Police and was investigated but the Police after investigation submitted a report that though there was a theft it was not detectable. Sri Ray was asked by the Branch Manager to make good the loss of Rs. 40,000/- to the Bank for which he wanted time but ultimately he was charge sheeted for misconduct on two counts :—

- (i) doing any act prejudicial to the interest of the Bank, or gross negligence or negligence involving or likely to involve the Bank in serious loss;
- (ii) wilful insubordination or disobedience of any lawful and reasonable order of the management or of a superior;

He was also placed under suspension pending enquiry. A domestic enquiry was conducted against him in which he was found guilty of the charges and was dismissed from service with effect from 17-4-85.

In this connection, the version of the second party workman Sri Ray is that there was no negligence on his part nor any insubordination. The locking system in the Chief Cashier's counter was defective. There was complete absence of security for the cash in the Chief Cashier's cabin which resulted in commission of theft of Rs. 40,000/- from the cash brought by him from the bank's vault within a short time in a most mysterious way. In the circumstance, he can not possibly be held responsible for the loss caused to the Bank. He insisted that it was a case of theft which could not be detected even by the Police. Besides, he took the plea that the extreme punishment of dismissal awarded against him is highly disproportionate which reveals a case of victimisation. He cited examples of some other employees of the Bank, who under similar situation have been awarded much less punishment and urged that the Management's action of dismissing him from service should be quashed and he should be reinstated in service with full back wages.

3. On the pleadings of both parties, four issues were framed as below :—

- (i) Whether the action of the management of Indian Overseas Bank, Bhubaneswar main Branch in dismissing Shri K. C. Ray, Ex-Shroff/Godown Keeper from service w.e.f. 17-4-85 is justified?
- (ii) Whether the domestic enquiry is fair and proper?
- (iii) Whether the punishment is justified?
- (iv) To what relief, if any, the workman is entitled?

4. **ISSUE NO. 2 :** The issue as to whether the domestic enquiry was fair and proper was taken up for consideration at the first instance. By an order passed on 17-7-87 it was held that the said enquiry was neither fair nor proper. The First Party-Management

ment, in the circumstance, was given opportunity to adduce evidence on merits which they did.

The First Party-Management challenged the order of the Tribunal before the Hon'ble High Court of Orissa by filing a writ petition (O.J.C. No. 2986 of 1987) which was heard and dismissed on 26-9-87. Their Lordships disposed of the said writ petition with the observation that when evidence is adduced by the parties on merits of the case the Tribunal would consider the matter with an independent mind without being influenced by any finding that might have been recorded in the order dated 17-7-1987.

5. **ISSUE NOS. 1 & 3 :** In this proceeding, so far as these issues are concerned, the questions that arise for consideration are as to whether the loss of Rs. 40,000/- caused to the Bank on 10-2-82 was occasioned by any prejudicial act of the Second party or on account of gross negligence on his part. Secondly, if there was any wilful insubordination or disobedience of any lawful or reasonable order passed by the Management by the second party-workman. Thirdly, if in the facts and circumstances of the case proved in this proceeding the punishment of dismissal could be held to be justified.

6. In this proceeding, on behalf of the First Party-Management, three witnesses were examined. M.W.1 Sri V. Viswanathan, at present a Senior Manager of the Indian Overseas Bank at Annasalai, Madras, who was during the relevant period a Sub-Manager of the Bhubaneswar main branch of the Indian Overseas Bank stated that on 10-2-82 Sri Ray brought from the vault of the bank Rs. 1,85,000/- for meeting the transactions of that day. A few minutes thereafter he was informed that a part of the said amount was missing. He immediately went to the cabin of Sri Ray and found him in a perplexed mood and not in a normal state of mind. On being questioned Sri Ray told that Rs. 35,000/- was missing. When asked as to if he suspected to anybody Sri Ray answered in negative. M.W.1 then sent information about the incident to the Regional Office of the Bank at Bhubaneswar. On verification it was found that the amount that was missing was Rs.40,000/- and not Rs.35,000/-. M.W.1 then alongwith Sri Ray and Sri S. Mandal, Accountant (M.W.2) verified the value of the bank and found that the balance amount in the vault was correct. Since it was a case of missing of cash they closed all the doors of the bank. On his direction, Sri K. K. Acharya, an Officer of the Bank reported the matter at the Regional Office, as also, at the Kharabelanagar Police Station. He proved the reports submitted to the Police Exts. 1 and 2 and the telex message sent to the Head Office Ext. 3 informing that there was a theft of Rs. 40,000/- from the cash cabin as reported by Sri Ray. According to M.W. 1, while closing the cash on 10-2-82 in the evening a debit voucher (Ext. 5) was prepared for the shortage of Rs. 40,000/- showing the amount in suspense account. On the very same day Sri Ray was asked by Ext. 6 to make good the loss of Rs. 40,000/- immediately. Sri Ray was also asked to make good the loss of Rs. 40,000/- by a letter Ext. 7 issued from the Regional Office on 23-2-82 in which he was intimated that unless he made good the loss disciplinary action would be initiated against him. Again on 20-8-82, Sri Ray was called upon by Ext. 8 to make good the loss but to no effect. M.W. 1 stated that Sri R. K. Mohapatra

was the Chief Cashier of the branch Bank at the relevant time who was entrusted with some minor supervisory duties in the bank on 8th, 9th and 10th February, 1982 and Sri Ray functioned as the Chief Cashier on those days as per practice prevailing in the bank. He also stated that on 9th February, 1982 he was informed by the Accountant of the Bank—M.W.2 that the workman Sri Ray had complained to him about the defective locking system in the cash cabin. He then sent for a Carpenter who took out the lock to find out the defects. He suggested that in the cabin a Godrej lock should be fixed but since it was not available the old lock was re-fixed which was subsequently replaced by a new one after the occurrence on 10th February, 82. He proved the notice u/s 178 of the Cr. P.C. received from the Kharabelanagar Police Station (Ext. 9) to the effect that the complaint lodged was reported to be undetectable and if the Management of the Bank so desired they might oppose the report before the S.D.J.M., Bhubaneswar. During his cross-examination it came to light that on 10-2-82 out of seven messengers of the Bank only two were present. There was no cash Peon on that day. One Sadasiva Mallick was given Bill Collector's allowance but he was attached to the job of cash messenger in addition to the duties of bill Collector. No arrangement was made on 10-2-82 for posting of any armed guard at the main entrance. The cash enclosure has a locking arrangement from outside and inside, but it is not locked during the bank working hours. The Chief Cashier is provided with a shelf and a drawer in his cabin with a locking system. M.W.1 further stated that after he was intimated about the defective locking system in the cash cabin he called the Carpenter who removed the lock but could not repair the same. He then directed that the lock be replaced with a Godrej Mortice lock but it was not available. Subsequently, after the occurrence all the locks of the four cash cabins and drawers including that of the Chief Cashier were replaced with new ones. M.W.1 stated that the counters in the bank including the counter of the Chief Cashier had been insured but he could not say if any claim was made with the concerned insurance company for loss of cash in the Chief Cashier's cabin. He could not say if on account of the fact that there was complete lapse of security in the bank and the locks were found defective no claim was advanced by the bank for recovery of the loss from the Insurance Company. M.W.1 further stated that after the cash in the cash counters was verified and the shortage was noticed the Police arrived within 45 minutes and searched the entire bank premises, the persons and their drawers but he was not present with the Police when they carried out the Search operation. M.W.1 further stated that within 10 to 15 minutes after the occurrence was reported to him, Kamal Kumar Acharya (M.W.3), who an Officer of the Bank was sent to report the same at the Police Station and at the Office of the Regional Manager. He stated that he did not know if Sri Acharya had been searched. According to him, on that day Sri Acharya had not entered the bank before the occurrence but he admitted that Sri Acharya had signed the attendance register on that day at 10 A.M. M.W.1 stated that disciplinary proceeding was started against Sri Ray because he did not make good the loss suggesting thereby that had Sri Ray paid the amount of Rs. 40,000/- there would not have been any disciplinary proceeding against him.

M.W.2, who was at the relevant time the Accountant of the bank stated that on 10-2-82 at 10.15 A.M. the vault was opened and Rs. 1,85,000/- was taken by the workman Sri Ray who functioned on that day as the Chief Cashier. He proved the vault register Ext. 11 and the cash balance register Ext. 12 to show that the amount in question was taken by Sri Ray from the vault. On that day between 10.20 A.M. and 10.25 A.M. M.W.2 saw Sri Ray talking with Sri N.C. Das of the Establishment Section of the bank within the Section itself. At this time he heard commotion near the cash counter and immediately rushed there. At the cash counter Sri Ray showed him a 10 rupee note bundle lying on the floor and told that Rs. 35,000/- was missing. Immediately thereafter M.W. 1 came there and on verification they found that the loss was Rs. 40,000/- M.W. 2 also stated that on 9-2-82 the workman Sri Ray reported to him around 5 P.M. that the lock of the Chief Cashier's cabin door was not functioning properly. The Carpenter who was called to repair it found that the lock needed replacement. By the time the occurrence took place in the cash cabin on 10-2-82 the locks had not been replaced. It was brought out from M.W. 2 during his cross-examination that Sri Ray had handled cash of the branch bank earlier and there was nothing adverse against him at any time regarding handling of cash by him. He also stated that there was never any occasion to suspect the integrity and sincerity of the workman Sri Ray. M.W. 2 stated that on 9-2-82 when Sri Ray reported to him about the defective locking system in the cash cabin the messengers were present. He could not say if the armed guard was then present near him. He admitted that he did not verify himself about the working of the locking system in the cash enclosure, the Chief Cashier's cabin, his drawers and his cupboard and further admitted that all the locks were changed on 11-2-82. He agreed that the Sub-Manager of the bank and he himself as the Accountant had the responsibility of ensuring that the locking system in the aforesaid places was functioning properly. He candidly admitted that the bank has the responsibility of providing proper locking arrangement and security and that the bank did not discharge its responsibility properly in providing proper locking and security arrangement in the Chief Cashier's cabin on 10-2-82.

M. W. 3, an Officer of the Bank stated that on 10-2-82 around 9.45 A.M. came to the bank as usual and because he felt sick with headache, after obtaining permission from the Accountant Mr. Mandal he went out of the bank to get some medicines around 10.10 A.M. At 10.30 A.M. he returned to the bank and found that the entrance door of the bank had been closed and no one was allowed to go in or come out. Being a staff member he was, however, allowed to go into the bank. After he came into the bank he learnt that there was missing of cash from the cash counter. He was subjected to lengthy cross-examination for the purpose of showing as to how his conduct on that day could not be said to be free from suspicion. In fact, it was suggested to him that taking advantage of the absence of the workman Sri Ray from the Cash cable when he had been to Sri N. C. Das, another bank employee, he went out of the Bank on the pretext of purchasing medicine taking away the cash, which fact he denied.

The workman examined himself as W.W.1 and narrated the entire occurrence from the time he

brought out the cash to the cash cabin till he found the missing of cash to the extent of Rs. 40,000/- His evidence reveals that on the day of the occurrence he reached the bank around 10 A.M. At 10.10 A.M. the Accountant-M.W.2 assigned to him the duties of the Chief Cashier. Thereafter M.W. 2, Sadasiv Mallick and he himself went to the strong room of the bank to bring cash to the counter. Around 10.20 A.M. on that day he was called by the Establishment Clerk Sri N. C. Das to make over to him a circular and an application form for applying for refund of the security deposit which he had made. He went to the seat of Sri Das after closing the shelf and the drawer and returned back to his seat within about two minutes. While returning back to the cash counter he found that the shelf door ad remained half opened and a bundle of ten rupee note was lying on the floor. Immediately he counted the money and detected the shortage. He enquired about the matter from Sadasiv Mallick and others and all of them expressed their ignorance as to how the money was found missing. At this time M.W. 2 came to his counter followed by M.W. 1 and on verification it was found that the cash was short by Rs. 40,000/- Half an hour thereafter the Police came to the bank and took his personal search and questioned him about the occurrence. His explanation reveals that whatever happened which resulted in causing the shortage of Rs. 40,000/- happened within two minutes when he went to the Establishment Clerk Sri N. C. Das to bring an application form and further that the seat of Sri Das was only at a distance of 8 to 10 feet from the cash cabin.

7. The evidence adduced in this proceeding by both parties reveals that :—

- (1) on 8th, 9th and 10th February, 1982 the second party-workman was kept in charge of the Chief Cashier because the Chief Cashier had been allotted a minor supervisory work;
- (2) the workman Sri Ray noticed that the locking system in the Chief Cashier's cabin was defective and brought this fact to the notice of the Accountant and through him the Sub-Manager on 9-2-82;
- (3) the Sub-Manager and the Accountant took steps for repair of the locking system but they were told by the Carpenters, who were called for doing the repair, that the locks needed replacement. No replacement could be made on that day because the required locks were not available;
- (4) On 10-2-82, the workman Sri Ray brought out from the bank's vault Rs. 1,85,000/- and kept the same in the Chief Cashier's cabin;
- (5) He left the Chief Cashier's cabin for a few minutes and went to another Clerk, namely, Shi N. C. Das and after coming back found that the cash to the extent of Rs. 40,000/- was missing. Immediately the matter was reported to the Sub-Manager and the Accountant and also to the Police;
- (6) the workman Sri Ray did not go out of the bank on that day after coming in so as to raise a suspicion that he himself carried the money outside the bank;

- (7) there is also no evidence to indicate that anybody else went out of the bank during the relevant time except Sri Acharya-M.W.3;
- (8) Sri Ray was not charge sheeted either for commission of theft of the amount or for misappropriation. The only charge against him was negligence of which he was found guilty. He was also found guilty of disobedience of the orders of the authorities by not making good the loss of Rs. 40,000/-.

On these facts it is to be decided whether Sri Ray was negligent so as to cause loss to the Bank to the extent of Rs. 40,000/- and if the infliction of the extreme punishment of dismissal from service on him is justified.

8. Let us now consider as to what constitutes 'negligence in discharge of duty' by a workman. Every workman owes a duty to his employer to exercise reasonable care in the performance of his duty. In deciding what is reasonable care, we have to apply the "standards of men and not of angels". Negligence is a negative conduct on the part of a workman, in as much as, it indicates his failure to exercise the care which the circumstances demand. In the case before us, there can be no escape from the conclusion that there has been negligence on the part of the workman Sri Ray while discharging the functions of the Chief Cashier on 10-2-82. It was within his knowledge that the locking system in the cash cabin was defective. He also knew that the defective locks had not been changed. Under the circumstances, it was expected of him to be more careful so as to keep the cash in the Chief Cashier's cabin fully secure. The fact that he left the cash at the cash cabin and went out without keeping watch on the same, reveals a case of lack of care which the circumstances demanded, which amount to negligence.

The next question which arises for consideration is as to whether this act of negligence calls for infliction on him the extreme punishment of dismissal. There are instances where even a single act of negligence would constitute serious misconduct calling for infliction of the extreme punishment of dismissal. This, however, would depend on the facts of each case.

In this particular case, it is revealed that there was no occasion in the past to suspect the conduct of Sri Ray in the matter of handling cash. Sri Ray was put in charge of the Chief Cashier on the relevant date in the absence of the permanent Chief Cashier. The facts further reveals that he brought the fact of defective locking system to the notice of the Management and the Management, as it seems, did not act seriously as they should have, in as much as, they

did not ensure immediate replacement of the locking system. There was lack of adequate security, in as much as, the armed guard of the bank was not present. It is admitted by M. W.2, the Accountant of the Bank at the relevant time that the Bank did not discharge its responsibility properly in providing proper locking system in the cash cabin and in providing security arrangement at the Chief Cashier's cabin on 10-2-82. In the circumstance, taking an over-all picture of the matter, a case of joint responsibility or joint negligence is not ruled out. It seems the Management of the Bank never intended to initiate a disciplinary proceeding against the second party workman Sri Ray at the first instance but they insisted on getting back the lost amount of Rs. 40,000/- from him. It was only when Sri Ray failed to make good the loss, they initiated the disciplinary proceeding against him. In such matters, the distinction between mere 'negligence' and 'wilful or deliberate negligence' is also relevant. In this case, there is absolutely no evidence that there was any wilful or deliberate negligence on the part of Sri Ray which occasioned the loss to the bank. Maybe, it was a case of slackness on his part or a case of faith reposed by him on his colleagues which resulted in causing the loss to the Bank. Considering all these circumstances, I do not think, the negligence of which Sri Ray has been rightly held guilty calls for infliction of the extreme punishment of dismissal. Such punishment is certainly disproportionate to the misconduct proved against Sri Ray. I would accordingly hold that the action of the Management of the Bank in dismissing Sri Ray from service with effect from 17-4-85 is unjustified.

9. ISSUE NO. 4 : Sri Ray, however, is guilty of negligence and therefore, he deserves punishment. In the circumstance of this case, I think, it will be appropriate that Sri Ray should be punished with stoppage of one annual increment and be reinstated in service with full back wages. He should, however, reimburse the amount of Rs. 40,000/- which the Bank has lost on account of his negligence. This amount of Rs. 40,000/- be deducted from the back wages awarded in his favour.

The reference is answered accordingly. Dictated & corrected by me.

Dt. 27-12-89.

S. K. MISRA, Presiding Officer

[No. L-12012/98/86-D.II(A)]

K. J. DYVA PRASAD, Desk Officer